



Number 18 of 2001

SEX OFFENDERS ACT 2001

REVISED

Updated to 13 November 2023

This Revised Act is an administrative consolidation of the *Sex Offenders Act 2001*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Electricity Costs (Emergency Measures) Domestic Accounts Act 2023* (29/2023), enacted 10 November 2023, and all statutory instruments up to and including the *Sex Offenders (Amendment) Act 2023 (Commencement) Order 2023* (S.I. No. 539 of 2023), made 9 November 2023, were considered in the preparation of this Revised Act.

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Civil Service Regulation Act, 1956	1956, No. 46
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Courts Act, 1971	1971, No. 36
Criminal Justice Act, 1960	1960, No. 27
Criminal Law Amendment Act, 1885	1885, c. 69
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Criminal Law (Rape) Act, 1981	1981, No. 10

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Local Government Act, 1941	1941, No. 23
Offences against the Person Act, 1861	1861, c. 100
Punishment of Incest Act, 1908	1908, c. 45
Sexual Offences (Jurisdiction) Act, 1996	1996, No. 38
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AN ACT TO REQUIRE, IN THE INTERESTS OF THE COMMON GOOD, THE NOTIFICATION OF INFORMATION TO THE GARDÁ SÍOCHÁNA BY PERSONS WHO HAVE COMMITTED CERTAIN SEXUAL OFFENCES; IN THOSE INTERESTS TO IMPOSE, OR ENABLE THE IMPOSITION OF, CERTAIN OTHER REQUIREMENTS ON SUCH PERSONS (INCLUDING REQUIREMENTS THE PURPOSE OF WHICH IS TO ASSIST IN THEIR REHABILITATION); TO ENABLE CERTAIN COMPLAINANTS TO BE HEARD AND LEGALLY REPRESENTED IN RELATION TO APPLICATIONS UNDER SECTION 3 OR 4 OF THE CRIMINAL LAW (RAPE) ACT, 1981, TO AMEND SECTION 2 OF THE CRIMINAL LAW (RAPE) (AMENDMENT) ACT, 1990, AND TO PROVIDE FOR RELATED MATTERS. [30th June, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement.

1. —(1) This Act may be cited as **the Sex Offenders Act, 2001**.

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

Interpretation (general).

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

“Act of 1861” means the Offences against the Person Act, 1861;

“Act of 1908” means the Punishment of Incest Act, 1908;

“Act of 1935” means the **Criminal Law Amendment Act, 1935**;

“Act of 1990” means the **Criminal Law (Rape) (Amendment) Act, 1990**;

“Act of 1993” means the **Criminal Law (Sexual Offences) Act, 1993**;

F1[“children detention school” has the same meaning as it has in section 3 of the **Children Act 2001**;]

F1[“Commissioner” means the Commissioner of the Garda Síochána;]

“conviction” (other than in sections 12, 22, 26(8) and 33) includes a finding of guilty but insane and “convicted” and cognate expressions shall be construed accordingly;

“court” means any court exercising criminal jurisdiction and includes court-martial;

F2[“imprisonment” includes detention in the Central Mental Hospital and “prison” shall be construed accordingly;]

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

F1[“probation officer” means a person appointed by the Minister to be a probation officer;]

F1[“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;]

“remission from the sentence” means, in relation to the sentence imposed on a person, the remission which the person may earn from the sentence under the rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct;

“sentence” includes a sentence of imprisonment and any other order made by a court in dealing with a convicted person, including—

- (a) an order under section 2(2) of the Trial of Lunatics Act, 1883, and
- (b) an order postponing sentence;

“sexual offence” shall be construed in accordance with F2[*section 3*;]

F1[“vulnerable person” means a person, other than a child, whose capacity to guard himself or herself against violence, exploitation or abuse, whether physical, sexual or emotional, by another person is significantly impaired through—

- (a) a physical disability, illness or injury,
- (b) a disorder of the mind, whether as a result of mental illness or dementia, or
- (c) an intellectual disability.]

(2) In this Act—

- (a) a reference to a Part, section or Schedule is to a Part or section of, or a Schedule to, this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

(3) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any enactment.

Sexual offences
for purposes of
Act.

3.—(1) Each of the offences referred to in the *Schedule* shall, subject to subsections (2) and (3), be a sexual offence for the purposes of this Act.

(2) An offence referred to in—

F3[(a) *paragraph 2 of the Schedule* (sexual assault or indecent assault), other than an offence of sexual assault or indecent assault of a person who, at the time of the commission of the offence, was F4[a vulnerable person,])

(b) *paragraph 5 of the Schedule* (incest by males),

(c) *paragraph 6 of the Schedule* (incest by females of or over 17 years of age), or

(d) paragraph 18, 19 or 20 of the *Schedule* in so far as it relates to an offence referred to in paragraph (a), (b) or (c),

shall not be a sexual offence for the purposes of this Act if—

(i) the victim of or, as the case may be, the other party to the offence was aged, at the date of the offence's commission, 17 years or more, and

F3[(ii) the person guilty of the offence—

(I) is, for the time being, the subject of an order of the court remanding him or her on bail or in custody pending the passing of sentence, or

(II) has not, in respect of the offence, been sentenced to any punishment involving deprivation of liberty for a limited or unlimited period of time or been made subject to any measure involving such deprivation of liberty.]

(3) An offence referred to in—

(a) paragraph 8 of the *Schedule* (defilement of girl between 15 and 17 years of age),

(b) paragraph 11 of the *Schedule* (buggery of persons under 17 years of age),

(c) paragraph 12 of the *Schedule* (gross indecency with males under 17 years of age), or

(d) paragraph 18, 19 or 20 of the *Schedule* in so far as it relates to an offence referred to in paragraph (a), (b) or (c),

shall not be a sexual offence for the purposes of this Act if—

(i) the victim of or, as the case may be, the other party to the offence was aged, at the date of the offence's commission, 15 years or more but less than 17 years, and

(ii) the person guilty of the offence was aged, at that date, not more than 3 years older than that victim or other party.

F5[(4) F6[...]]

F7[Application of
amendments
made by Sex
Offenders
(Amendment) Act
2023

3A. —(1) An amendment of this Act made by the Sex Offenders (Amendment) Act 2023 shall apply in respect of—

(a) persons who are convicted—

(i) of a sexual offence, or

(ii) in a place outside the State, of an offence, and the act constituting that offence would, if done in the State, constitute a sexual offence under the law of the State,

whether the person is so convicted before or after the coming into operation of the amendment,

(b) sex offender orders (within the meaning of *Part 3*), whether made before or after the coming into operation of the amendment, and

(c) sentences involving post-release supervision (within the meaning of *Part 5*), whether imposed before or after the coming into operation of the amendment.

(2) Any legal proceedings (civil or criminal) in respect of a right, privilege, obligation or liability acquired, accrued or incurred under, or an offence against or contravention of, a relevant provision of this Act before the date of the coming into operation of

section 5 of the Sex Offenders (Amendment) Act 2023 may, on or after that date, be instituted, continued or enforced, and any penalty, forfeiture or punishment in respect of such offence or contravention may be imposed and carried out, as if the said provision had not been amended by the Sex Offenders (Amendment) Act 2023.

(3) In this section, "relevant provision of this Act" means a provision of this Act that is amended by the Sex Offenders (Amendment) Act 2023.]

Regulations.

4. —(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purpose of enabling any provision of this Act to have full effect.

(2) Every regulation F8[under this Act] shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses.

5. —The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART 2

OBLIGATIONS OF SEX OFFENDERS TO NOTIFY CERTAIN INFORMATION

"relevant date".

6. —In this Part, "relevant date" means the date of conviction for the sexual offence concerned.

Persons subject to the requirements of this Part.

7. —(1) Without prejudice to subsection (2) and *section 13* and 16(7), a person is subject to the requirements of this Part if he or she is convicted of a sexual offence after the commencement of this Part.

(2) A person is also subject to the requirements of this Part if he or she has been convicted of a sexual offence before the commencement of this Part and, at that commencement, either—

- (a) the sentence to be imposed on the person in respect of the offence has yet to be determined, or
- (b) a sentence has been imposed on the person in respect of the offence and—
 - (i) the person is serving the sentence in prison,
 - (ii) the person is temporarily released under section 2 or 3 of the *Criminal Justice Act, 1960*, or
 - (iii) the sentence is otherwise still in force or current.

Period for which person is subject to requirements of this Part and related matters.

8. —(1) A person who, by reason of *section 7*, is subject to the requirements of this Part shall be so subject for the period referred to F9[in subsection (3) or specified by the court pursuant to subsection (4), as the case may be,] or, in the case of a person referred to in *section 7*(2), so much (if any) of that period as falls after the commencement of this Part.

(2) Subsection (1) is subject to *section 11*.

(3) The period mentioned in subsection (1) is the period, beginning with the relevant date, of—

- (a) an indefinite duration if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for life or for a term of more than 2 years,
- (b) 10 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for a term of more than 6 months but not more than 2 years,
- (c) 7 years if the sentence imposed on the person in respect of the offence concerned is one of imprisonment for a term of 6 months or less, or
- (d) 5 years if the sentence imposed on the person—
 - (i) is one of imprisonment for any term, the operation of the whole of which is suspended (but, if the operation of that term is revived by the court, whichever of the preceding paragraphs is appropriate shall apply instead of this subparagraph), or
 - (ii) is otherwise than one of imprisonment.

F9[(4) If—

- (a) a sentence is imposed on a person in respect of a sexual offence, and
- (b) at the time of the commission of the offence concerned, the person was aged under 18 years,

the court shall, in imposing the sentence, specify the period for which the person shall be subject to the requirements of this Part, which period shall not exceed 5 years, having regard to—

- (i) the nature and circumstances of the offence concerned, and
- (ii) the degree of risk, if any, that the offender may commit a subsequent sexual offence.]

(5) If a sentence of imprisonment for any term is imposed on the person referred to in subsection (1) in respect of the offence concerned and the operation of a part of that term is suspended—

- (a) the part of that term the operation of which is not suspended shall be regarded as the term of imprisonment imposed on that person for the purposes of subsection (3) (but, if the operation of the first-mentioned part of that term is revived by the court, whichever of paragraphs (a), (b) and (c) of subsection (3) is appropriate shall apply without regard to this paragraph),
- (b) the preceding paragraph extends to a case in which that suspension is provided for subsequent to the imposition of the sentence.

(6) If a person is or has been sentenced in respect of 2 or more sexual offences and the sentences imposed are consecutive or partly concurrent then subsection (3) shall have effect as if—

- (a) in the case of consecutive sentences, the sentence imposed in respect of each of the offences were or had been a sentence equal to the aggregate of those sentences,
- (b) in the case of partly concurrent sentences, the sentence imposed in respect of each of the offences were or had been a sentence equal to the aggregate of those sentences after making such deduction as is necessary to ensure that no period of time is counted more than once.

(7) Without prejudice to *section 11*, a person shall cease to be subject to the requirements of this Part if the conviction in respect of the offence concerned is quashed on appeal or otherwise.

(8) A reference in this section to a sentence imposed on a person shall, if the sentence is varied on appeal, be construed as a reference to the sentence as so varied and, accordingly, the period for which a person is subject to the requirements of this Part, by reason of this section, shall stand reduced or increased, as the case may be, in the event that such a variation is made which results in the sentence falling into a different paragraph of *subsection (3)* than it did before the variation.

Supply of information to facilitate compliance with this Part.

9. —The person for the time being in charge of the place where a person subject to the requirements of this Part is ordered to be imprisoned in respect of an offence (whether or not the offence that gave rise to the person's being subject to those requirements) shall notify in writing—

- (a) before the date on which the sentence of imprisonment imposed on the person in respect of the first-mentioned offence expires or, as the case may be, the person's remission from the sentence begins ("the date of release"), the person that he or she is subject to the requirements of this Part, and
- (b) at least 10 days before the date of release, the Commissioner of the Garda Síochána of the fact that that expiry or remission will occur in relation to the person.

Notification requirements.

10. —(1) A person who is subject to the requirements of this Part shall, before the end of the period of F10[3 days] beginning with the relevant date, or, if that date is prior to the commencement of this Part, that commencement, notify to the Garda Síochána—

- F10[(a) his or her name on the date on which the notification is given,]
- F11[(aa) where he or she also uses, or at any time previously used, one or more other names, each of those names, and]

- (b) his or her F10[home address on the date on which the notification is given].

(2) A person who is subject to those requirements shall also, before the end of the period of F10[3 days] beginning with—

- (a) the person's using a name which is not the name, or one of the names, last previously notified by him or her to the Garda Síochána under this section,
- (b) any change of his or her home address,
- (c) the person's having resided or stayed, for a qualifying period, at any place in the State, the address of which has not been notified to the Garda Síochána under this section as being his or her current home address, or
- (d) the person's returning to an address F10[in the State on a date other than that notified under *subsection (3)(c)*], having, immediately prior to such return, been outside the State for a continuous period of F10[3 days] or more,

notify that name, the effect of that change, the address of that place or, as the case may be, F10[the fact of that return and the address to which the person has returned] to the Garda Síochána.

F12[(3) If a person who is subject to the requirements of this Part intends to leave the State for a continuous period of 3 days or more, he or she shall notify the Garda Síochána of—

- (a) that intention,

(b) the address of each place outside the State at which he or she intends to reside or stay, and

(c) the date on which he or she intends to return to the State.]

(4) If a person who is subject to the requirements of this Part is outside the State for a continuous period of F12[3 days] or more and did not intend, on leaving the State, to be outside the State for such a continuous period, the person shall, subject to subsection (5), notify the Garda Síochána, before the expiry of a further period of F12[3 days], reckoned from the F12[3rd day] that he or she is so outside the State, of that fact and the address of the place at which he or she is residing or staying outside the State.

F11[(4A) A person may give a notification under subsection (4)—

(a) by sending, by post, a written notification of the matters concerned to any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this section, or

(b) by such other means as may be prescribed.]

(5) Subsection (4) shall not apply if the person concerned has returned to the State before the expiry of the further period of F12[3 days] mentioned in that subsection.

(6) A notification given to the Garda Síochána by any person shall not be regarded as complying with subsection (1), (2), (3) or (4) unless it also states the person's—

(a) date of birth,

(b) name on the relevant date and, where he or she used one or more other names on that date, each of those names, and

(c) home address on the relevant date.

F11[(6A) Without prejudice to subsections (1), (2), (3) and (4), a person who is subject to the requirements of this Part shall notify the Garda Síochána of the matters specified in paragraphs (a), (aa) and (b) of subsection (1) and paragraphs (a), (b) and (c) of subsection (6)—

(a) not later than 3 days after the coming into operation of section 8 (g) of the Sex Offenders (Amendment) Act 2023,

(b) where the person gives a notification under subsection (1), (2), (3) or (4) and does not give another such notification in the 12 month period thereafter, not later than 7 days after the end of that 12 month period, and

(c) where a person has not given a notification under subsection (1), (2), (3) or (4) in the 12 month period after the giving of a notification under paragraph (a) or (b), not later than 7 days after the end of that 12 month period.]

(7) For the purpose of determining any period for the purposes of subsection (1), (2), (3) or (4), there shall be disregarded any time when the person concerned is—

(a) remanded in custody,

(b) serving a sentence F12[in prison,]

F13[(ba) detained in a children detention school, or]

(c) temporarily released under section 2 or 3 of the Criminal Justice Act, 1960.

F13[(7A) Where a person gives a notification under subsection (1), (2), (3) or (4) and the member of the Garda Síochána to whom the notification is given is not satisfied that the person has a home address or that the person is currently residing or staying at such home address (other than in circumstances where the person has given a

notification to that effect under subsection (2)(c)), the member shall inform that person in writing that he or she shall be required to—

- (a) notify the Garda Síochána of the specific location of the place in the State where he or she intends to reside or stay at on the night of that notification, and
- (b) subject to subsection (7B), continue to notify the Garda Síochána on every 3rd day thereafter of the specific location of the place in the State where he or she intends to reside or stay at on the night of that notification,

until such time as the member of the Garda Síochána to whom the notification is being given informs the person that he or she is satisfied that the person has acquired a home address or has returned to his or her home address in the State.]

F13[(7B) A member of the Garda Síochána not below the rank of inspector may, in respect of a person to whom subsection (7A) applies, specify such period of more or less than 3 days for the purposes of paragraph (b) of that subsection as he or she is satisfied is appropriate, having regard to—

- (a) the interests of public safety, or
- (b) the safety of a particular member of the public,

and where such a period is so specified, the member of the Garda Síochána informing a person under that subsection shall so inform the person.]

F13[(7C) Subject to subsection (7D), a person who is required to give a notification under this section (other than under subsection (4)) shall do so by attending in person at any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this section and notifying orally a member of the Garda Síochána at the station of the matters concerned.]

F13[(7D) Where a person who is required to give a notification under this section (other than under subsection (4))—

- (a) has a disability such that he or she is unable to give the notification in person, and
- (b) provides a written certificate signed by a person who is a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007 to that effect to the member in charge of any Garda Síochána station which is a divisional headquarters or which has been designated by the Commissioner for the purposes of this section not later than the day before the date by which the notification is required to be given,

the member in charge shall arrange for the notification concerned to be given orally to a member of the Garda Síochána—

- (i) at the person's home, or
- (ii) at any other place as may be agreed with the member in charge.]

(8) F14[...]

(9) Proof of the sending by post of F15[a written notification under this section] shall, in any proceedings for an offence under section 12(1)(a), lie on the defendant.

(10) A notification under this section shall be acknowledged in writing and that acknowledgement shall be in such form as may be prescribed.

F13[(10A) A designation of a Garda Síochána station by the Commissioner for the purposes of this section shall be in writing and the Commissioner shall cause a list of the Garda Síochána stations so designated to be published.]

(11) In this section—

“home address”, in relation to any person, means the address of his or her sole or main residence or, if he or she has no such residence, his or her most usual place of abode or, if he or she has no such abode, the place which he or she regularly F15[stays];

“qualifying period” means—

(a) a period of F15[3 days], or

(b) 2 or more periods, in any period of 12 months, which (taken together) amount to F15[3 days].

F17[Power of Garda Síochána to take fingerprints, palm prints and photographs of persons subject to requirements of Part

10A. —(1) Where a person is subject to the requirements of this Part—

(a) a member of the Garda Síochána may, at any convenient place, take the fingerprints, palm prints or photograph of that person, within 7 days of the relevant date or the date of the giving of a notification under subsection (1), (2), (3), (4), (6A) or (7A) of section 10, or

(b) a member of the Garda Síochána not below the rank of sergeant may require, in writing, that person to attend, within 7 days of the relevant date or the date of the giving of a notification under subsection (1), (2), (3), (4), (6A) or (7A) of section 10, at a named Garda Síochána station for the purpose of having his or her fingerprints, palm prints or photograph taken.

(2) Where a person has made it impracticable for his or her fingerprints, palm prints or photograph to be taken within the period of 7 days referred to in paragraph (a) or (b) of subsection (1), a member of the Garda Síochána not below the rank of sergeant may require (or in the case of a person attending a Garda Síochána station pursuant to a requirement under this section, further require) in writing, that person to attend at a named Garda Síochána station on a specified day for the purpose of having his or her fingerprints, palm prints or photograph taken.

(3) A member of the Garda Síochána may take the fingerprints, palm prints or photograph of a person on his or her attendance at a Garda Síochána station pursuant to a requirement under this section.

(4) A fingerprint, palm print or photograph ("the first-mentioned fingerprint, palm print or photograph") of a person taken pursuant to a requirement under this section shall, if not previously destroyed, be destroyed—

(a) where a fingerprint, palm print or photograph, as the case may be, of the person is otherwise retained by the Garda Síochána under this or any other enactment, not later than 3 months from the date on which the first-mentioned fingerprint, palm print or photograph of the person is taken, or

(b) where a fingerprint, palm print or photograph, as the case may be, of the person is not otherwise so retained, not later than 3 months from the date on which the person ceases to be subject to the requirements of this Part.

(5) A person who is required under subsection (4) to destroy, or cause to be destroyed, a fingerprint, palm print or photograph shall ensure that the fingerprint, palm print or photograph, every copy thereof and every record relating to the fingerprint, palm print or photograph in so far as it identifies the person from or of whom the fingerprint, palm print or photograph has been taken, are destroyed.

(6) The power conferred by this section is without prejudice to any other power exercisable by a member of the Garda Síochána to take, or cause to be taken, the fingerprints, palm prints or photograph of a person or to require a person to attend at a Garda Síochána station for that purpose.

(7) In this section, "record", in relation to a fingerprint, palm print or photograph, includes a copy of a record.]

Discharge from obligation to comply with requirements of this Part.

11. —(1) A person who, by reason of *sections 7 and 8*, is subject to the requirements of this Part for a period of an indefinite duration may apply to the court for an order discharging the person from the obligation to comply with those requirements on the ground that the interests of the common good are no longer served by his or her continuing to be subject to them.

(2) An application under this section shall not be made before the expiration of the period of 10 years from the date of the applicant's release from prison.

(3) The applicant shall, not later than the beginning of such period before the making of the application as may be prescribed, notify the superintendent of the Garda Síochána of the district in which he or she ordinarily resides or has his or her most usual place of abode of his or her intention to make an application under this section.

(4) That superintendent or any other member of the Garda Síochána shall be entitled to appear and be heard at the hearing of that application.

(5) On the hearing of an application under this section, the court shall, if satisfied that the interests of the common good would no longer be served by the applicant's continuing to be subject to the requirements of this Part, make an order discharging the applicant from the obligation to comply with those requirements.

(6) In considering an application under this section, the court may require to be adduced, in such form as it thinks appropriate, evidence (including expert evidence) with regard to whether or not the interests of the common good would any longer be served by the applicant's continuing to be subject to the requirements of this Part.

(7) If the court makes an order discharging the applicant from the obligation to comply with the requirements of this Part, the court shall cause the Garda Síochána to be notified, in writing, of that discharge.

(8) The jurisdiction of the court in respect of an application under this section may be exercised by the judge of the circuit where the applicant ordinarily resides or has his or her most usual place of abode.

(9) Proceedings under this section shall be heard otherwise than in public.

(10) In this section—

"applicant" means the person referred to in *subsection (1)*;

"court" means the Circuit Court;

"date of the applicant's release from prison" means the date on which the applicant's sentence of imprisonment referred to in *section 8(3)* expires or, as the case may be, his or her remission from the sentence begins.

Offences in connection with notification requirements.

12. —(1) A person who—

(a) fails, without reasonable excuse, to comply with *subsection (1), (2), F19[(3), (4), (6A) or (7A)] of section 10*, or

(b) notifies to the Garda Síochána, in purported compliance with that *subsection (1), (2), F19[(3), (4), (6A) or (7A)]*, any information which he or she knows to be false or misleading in any respect,

shall be guilty of an offence.

(2) A person is guilty of an offence under *subsection (1)(a)* on the day on which he or she first fails, without reasonable excuse, to comply with *subsection (1), (2), F19[(3),*

(4), (6A) or (7A)], as the case may be, of *section 10* and continues to be guilty of it throughout any period during which the failure continues; but a person shall not be prosecuted under that provision more than once in respect of the same failure.

F20[(2A) A person who—

- (a) refuses to allow his fingerprints, palm prints or photograph to be taken pursuant to *section 10A*, or
- (b) fails or refuses, without reasonable excuse, to comply with a requirement under *section 10A(2)* to attend at a Garda Síochána station named under that section within the time period specified for the purposes of having his or her fingerprints, palm prints or photograph taken,

shall be guilty of an offence.]

F21[(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or imprisonment for a term not exceeding 12 months, or both, or
- (b) on conviction on indictment to a fine not exceeding €10,000, or imprisonment for a term not exceeding 5 years, or both.]

(4) In proceedings for an offence under *subsection (1)(a)* a statement on oath by a member of the Garda Síochána referred to in *subsection (5)* that no notification of the matters concerned was given by the defendant to the Garda Síochána F19[by the means referred to in *subsection (4A), (7C) or (7D) of section 10*] shall, until the contrary is shown, be evidence that no such notification was given by the defendant.

(5) The member of the Garda Síochána referred to in *subsection (4)* is a member not below the rank of sergeant who, from his or her evidence to the court, the court is satisfied—

- (a) is familiar with the systems operated by the Garda Síochána for recording the fact that particular information has been received by them, and
- (b) has made all proper inquiries in ascertaining whether a notification by the defendant of the matters concerned was received by the Garda Síochána.

Application of
this Part to
persons convicted
outside State.

13. —(1) If—

- (a) a person has been convicted, in a place other than the State of an offence,
- (b) the act constituting the offence concerned would, if done in the State, constitute a sexual offence (within the meaning of this Act) under the law of the State, and either—
 - (i) the person would, accordingly, be subject to the requirements of this Part by reason of *subsection (1) or (2) of section 7*, or
 - (ii) at the commencement of this Part, the person, as a person who has been convicted of the first-mentioned offence in *paragraph (a)*, is required, under the law of the first-mentioned place in that paragraph (however that requirement is described in that law), to notify to the police in that place information of a similar nature to that required to be notified by a person otherwise subject to the requirements of this Part,

and

- (c) the person is, at the time of the conviction, or thereafter becomes, resident in the State,

that person shall be deemed to be subject to the requirements of this Part and this Part shall, subject to *subsection (2)*, apply accordingly.

F22[(2) For the purposes of such application, *section 10* shall have effect as if for *subsection (1)* there were substituted the following subsection:

"(1) A person who is subject to the requirements of this Part shall, before the end of the period of 3 days beginning with—

(a) in case the person is already resident in the State upon his or her so first returning and *paragraph (c)* does not apply, the date on which the person first returns to the State after being convicted of the offence concerned,

(b) in case the person is not so resident and *paragraph (c)* does not apply, the date on which the person first becomes resident in the State after being convicted of the offence concerned, or

(c) in case the date on which the person so first returns to, or becomes resident in, the State is prior to the coming into operation of section 11 of the Sex Offenders (Amendment) Act 2023, the date of such coming into operation,

notify to the Garda Síochána—

(i) his or her name on the date on which the notification is given,

(ii) where he or she also uses, or at any time previously used, one or more other names, each of those names,

(iii) his or her home address on the date on which the notification is given,

(iv) the address of each other place (if any), whether in or outside the State, at which, on the date on which the notification is given, he or she resides or regularly stays, and

(v) the address of each other place (if any), whether in or outside the State, at which the person has resided or regularly stayed since the date on which he or she was convicted of the offence concerned.".]

(3) For the purposes of this section, a person shall be deemed to be resident in the State if he or she is ordinarily resident, or has his or her principal residence, in the State, or is in the State for a qualifying period.

(4) Where a person to whom this section applies is charged with an offence under *section 12*, he or she shall, whether or not he or she would be treated for the purposes of *section 12* as having a reasonable excuse apart from this subsection, be treated for those purposes as having a reasonable excuse if he or she believed that the act constituting the offence referred to in *subsection (1)* would not, if done in the State, constitute any sexual offence (within the meaning of this Act) under the law of the State.

(5) For the purposes of *subsection (4)*, it is immaterial whether a belief is justified or not if it is honestly held.

(6) In this section—

"police" means, in relation to the first-mentioned place in *subsection (1)*, any police force in that place, or a member thereof, whether that force is organised at a national, regional or local level;

"qualifying period" has the same meaning as it has in *section 10*.

Certificate as evidence of person's being subject to requirements of this Part.

14. —(1) If the conviction, after the commencement of this Part, of a person for an offence gives rise to his or her becoming subject to the requirements of this Part, the court before which he or she is convicted of the offence shall forthwith, after the conviction, issue to each of the persons referred to in subsection (5) a certificate stating—

- (a) that the person has been convicted of the offence,
- (b) the sentence, if any, imposed on the person in respect of the offence, and
- (c) that the person has become subject to the requirements of this Part.

(2) If a sentence is imposed on a person in respect of the offence referred to in subsection (1) after a certificate relating to that offence has been issued under that subsection, the court which imposed the sentence shall forthwith, after the imposition of the sentence, issue to each of the persons referred to in subsection (5) a certificate stating the sentence that has been imposed on the person.

(3) If—

- (a) the conviction referred to in subsection (1) is quashed on appeal or otherwise, or
- (b) the sentence imposed on foot of that conviction is varied on appeal or otherwise,

the court which quashes the conviction or varies the sentence shall forthwith, after the quashing of the conviction or the variation of the sentence, issue to each of the persons referred to in subsection (5) a certificate stating that the conviction has been quashed or stating the variation that has been made in the sentence.

(4) A certificate purporting to be issued under subsection (1), (2) or (3) shall, in any proceedings, be evidence of the matters stated in it without proof of the signature of the officer of the court purporting to sign it or that that person was authorised to sign it.

(5) The persons referred to in subsections (1), (2) and (3) are—

- (a) the Garda Síochána,
- (b) the person convicted of the offence concerned, and
- (c) where appropriate, the person for the time being in charge of the place where the convicted person is ordered to be imprisoned or, as the case may be, F23[the Probation Service].

(6) The mode of proving a conviction or sentence authorised by subsection (4) shall be in addition to, and not in substitution for, any other authorised mode of proving such conviction or sentence.

(7) Rules of court may make provision in relation to the form of certificates under this section and the manner in which they may be issued.

F24[Part 2A]

ASSESSMENT AND MANAGEMENT OF RISK POSED BY SEX OFFENDERS

Interpretation
(Part 2A)

14A. —(1) In this Part—

"Act of 2005" means the Garda Síochána Act 2005 ;

"housing authority" has the same meaning as it has in the Housing (Miscellaneous Provisions) Act 1992;

"relevant information", in relation to a relevant offender, means any information concerning him or her that—

- (a) is necessary to carry out a proper assessment of the risk of the harm posed by him or her to the public, or a member of the public, or for the management of that risk, and
- (b) is appropriate and proportionate for the purposes of that assessment or management;

"relevant offender" means—

- (a) a person who is subject to the requirements of *Part 2*,
- (b) a person for whom *Part 2* has effect under *section 16(7)*, or
- (c) a person who has been convicted of a sexual offence and who is under the supervision of a probation officer;

"risk assessment and management team" shall be construed in accordance with *section 14B(1)*.

(2) This Part is without prejudice to any power in any other enactment or under any other law to provide or to receive information.]

F25[Risk assessment and management team

14B. —(1) A member of the Garda Síochána not below the rank of inspector and a probation officer not below the grade known as Senior Probation Officer may, where they are satisfied, in relation to a relevant offender, that it is necessary to do so, establish a team of persons (in this Part referred to as a "risk assessment and management team") for the purpose of—

- (a) the full and proper assessment of—
 - (i) the risk of harm posed by the relevant offender to the public or a member of the public, and
 - (ii) how that risk might be managed, and
- (b) the management of that risk.

(2) A risk assessment and management team shall consist of—

- (a) a representative of the Garda Síochána, being a member not below the rank of inspector,
- (b) a representative of the Probation Service, being a probation officer not below the grade known as Senior Probation Officer, and
- (c) such of the following as the member of the Garda Síochána and the Senior Probation Officer referred to in *paragraphs (a) and (b)* consider appropriate, having regard to the expertise required to assess the risk of harm posed by the relevant offender, and to manage that risk effectively:
 - (i) a representative of the Child and Family Agency;
 - (ii) a representative of the Health Service Executive;
 - (iii) a representative of the Irish Prison Service (being the prison service of the Department of Justice, which is charged with the management of prisons);
 - (iv) a representative of any children detention school in which an offender was detained;
 - (v) a representative of a housing authority;

(vi) a representative of such other organisations or bodies as may be prescribed.

(3) In prescribing an organisation or body for the purposes of subsection (2)(c)(vi), the Minister shall take into account—

- (a) the role played by the organisation or body in the assessment or management of the risk of harm posed by relevant offenders,
- (b) the need to protect the public, or a member of the public, from such risk, and
- (c) the role played by the organisation or body in providing and enabling access for relevant offenders to services that support the rehabilitation and reintegration into society of such offenders.

(4) A member of a risk assessment and management team may share with the other members of the team any relevant information relating to the relevant offender concerned that is necessary for the purpose of accurately and effectively assessing or managing the risk of harm posed by the relevant offender.

(5) A member of a risk assessment and management team may share with the organisation or body which he or she represents on the team any relevant information relating to the relevant offender concerned available to the team that is necessary for the purpose of accurately and effectively assessing or managing the risk of harm posed by the relevant offender.

(6) An organisation or body with whom information is shared in accordance with subsection (5) may use or share that information with another party where, and to the extent, necessary for the purpose referred to in that subsection.

(7) The risk assessment and management team may, for the purposes of the performance of its functions, consult with such persons as appear to it to be expert or knowledgeable in the assessment and management of the risk of harm posed by relevant offenders or by the relevant offender concerned.

(8) Where a risk assessment and management team consults with a person pursuant to subsection (7), it may share any relevant information relating to that offender available to the team that is necessary for such consultation and the person may use that information for the purposes of such consultation.

(9) Information shared by a member of a risk assessment and management team under this section shall not be disclosed to any other person or body except in so far as information can be disclosed in accordance with this section or section 14D.]

F26[Regulations in relation to risk assessment and management teams

14C. —(1) The Minister may by regulations make provision for such additional matters in relation to risk assessment and management teams, including their operation and functions, as appear necessary or expedient to him or her.

(2) In making any such regulations, the Minister shall take into account—

- (a) the role and importance of risk assessment and management teams in the assessment and management of the risk of harm posed by relevant offenders,
- (b) the effective and efficient operation of the risk assessment and management process, and
- (c) the need to protect the public, and members of the public, from the risks being assessed and managed.]

F27[Disclosure of information relating to relevant offender where offender poses risk of harm

14D. —(1) Subject to this Part, a member of the Garda Síochána not below the rank of inspector ("the member concerned") may, where he or she is satisfied that there is a risk of harm to the public, or a member of the public, due to the commission by a relevant offender of a sexual offence, authorise the disclosure of such of the following as he or she considers necessary to prevent that harm:

- (a) the name of the relevant offender;
- (b) a photograph of the relevant offender;
- (c) the address at which the relevant offender is residing or staying;
- (d) the nature of the sexual offence of which the relevant offender was convicted;
- (e) the level of risk posed by the relevant offender to the public or a member of the public;
- (f) such other information as the member considers necessary to avoid, mitigate or manage the risk.

(2) A disclosure under this section may only be made to such persons in respect of whom the disclosure is necessary in order to prevent the harm referred to in subsection (1).

(3) Subject to subsection (4), a disclosure under this section may only be authorised where the member concerned is satisfied that such disclosure is unlikely to result in—

- (a) public disorder,
- (b) physical harm to a person,
- (c) damage to property, or
- (d) intimidation of, or threats to, a person.

(4) Subsection (3) shall not apply where the member concerned is satisfied that the harm referred to in subsection (1) of which the public, or a member of the public, is at risk is greater than any harm that may be caused by any of the matters specified in paragraphs (a) to (d) of subsection (3) that result from the disclosure.

(5) The member concerned may, when authorising the disclosure of information pursuant to this section—

- (a) specify the purpose for which the information may be used by the person to whom it is being disclosed, or
- (b) impose such conditions relating to the further disclosure of the information by that person as the member considers appropriate.

(6) Without prejudice to section 14E(3), for the purposes of subsection (1) or (4), the member concerned may have regard to—

- (a) any assessment by a risk assessment and management team of the risk of harm posed by the relevant offender, and
- (b) any other information or material that the member considers of relevance.]

F28[Notice of proposed disclosure of information to relevant offender concerned

14E. —(1) Subject to subsection (2), a member of the Garda Síochána shall, in advance of making a disclosure under section 14D in respect of a relevant offender—

- (a) inform the relevant offender—

- (i) that such a disclosure is proposed, and

(ii) that he or she is entitled to make a submission in writing, in respect of whether the disclosure should be made, within 5 days or such other period as may be specified by the member where he or she considers it appropriate in the circumstances, and

(b) provide, other than where such provision would undermine the purpose of the disclosure or would be prejudicial to the assessment and management of the risk of harm posed by the offender, to the relevant offender a summary of—

- (i) the information that is proposed to be disclosed, and
- (ii) the reasons for making such disclosure.

(2) *Subsection (1) shall not apply where—*

- (a) the relevant offender has consented to the disclosure concerned,
- (b) having made reasonable efforts to do so, the relevant offender cannot be located, or
- (c) the member of the Garda Síochána is satisfied that there is an immediate need to make the disclosure concerned in order to prevent harm to the public or a member of the public.

(3) A member of the Garda Síochána shall, when making a decision as to whether to make a disclosure under *section 14D*, take into account any submissions made in that regard by the relevant offender pursuant to this section.]

F29[Publication of information in certain circumstances

14F. —(1) Subject to *subsection (2)*, where a relevant offender fails to comply with a requirement to which he or she is subject under *Part 2* and the offender's whereabouts are unknown to the Garda Síochána, a member not below the rank of inspector may, for the purpose of locating the offender or protecting the public, or a member of the public, from harm, authorise the publication of such of the following as appears to him or her to be necessary for that purpose:

- (a) any of the following in relation to the offender:
 - (i) his or her name;
 - (ii) his or her address;
 - (iii) a description of him or her;
 - (iv) his or her age;
 - (v) a photograph of him or her;
 - (vi) details of any distinguishing feature;
- (b) the fact that the offender is a relevant offender;
- (c) where available, information concerning the risk of harm posed by the offender or any other information which would assist in locating the offender or protecting the public, or a member of the public, from harm.

(2) Information published under this section should be limited to that information necessary to locate the offender or to protect the public, or a member of the public, from harm.]

F30[Record of disclosure or publication to be maintained

14G. —(1) Where a member of the Garda Síochána makes a decision to disclose information under *section 14D*, or to publish information under *section 14F*, the member shall compile and maintain a record of the decision made which shall include—

- (a) the reasons for making the decision,
- (b) the information which is disclosed or published under this Part,
- (c) in relation to information disclosed under *section 14D*, the name and address of the person to whom information is disclosed under this Part, and
- (d) in relation to information published under *section 14F*, the manner of such publication.

(2) Where a record compiled and retained pursuant to *subsection (1)* is required to be shared with any person who is not a member of the Garda Síochána, the record may be redacted by a member of the Garda Síochána not below the rank of inspector where, and to the extent, necessary—

- (a) to protect the public, or a member of the public, from harm, or
- (b) to prevent any prejudice to the assessment and management of the risk of harm posed by the relevant offender concerned.]

F31[Power of Commissioner to conduct research and publish information

14H. —(1) The Commissioner may undertake, commission or assist in research projects related to any matter relevant to his or her functions in protecting the public, or members of the public, from the risk of harm posed by relevant offenders.

(2) The Commissioner shall publish, or cause to be published, such information as he or she considers appropriate setting out the manner in which *section 14D* operates to permit the disclosure of information under that section.

(3) Section 31 of the Act of 2005 shall apply to the function of the Commissioner under *subsection (1)* as it applies to his or her functions under that Act, subject to the modification that the reference in *subsection (4)* thereof to a provision of that Act shall be read as a reference to *subsection (1)*.]

PART 3

SEX OFFENDERS ORDERS

Definitions (Part 3).

15. —In this Part, unless the context otherwise requires—

“applicant” means a member of the Garda Síochána not below the rank referred to in *section 16* who has applied to the court for the making of a sex offender order and, in relation to such an order that is in force, means any member of the Garda Síochána;

“court” means the Circuit Court;

“respondent” means a person in respect of whom an application for a sex offender order has been made or in respect of whom such an order has been made;

“sex offender order” has the meaning assigned to it by *section 16*.

Sex offender orders.

16. —(1) If, on application to it in that behalf by a member of the Garda Síochána not below the rank of Chief Superintendent, it appears to the court, on evidence tendered by the applicant, that the conditions specified in *subsection (2)* are satisfied in respect of the respondent, the court may make an order (in this Act referred to as

a “sex offender order”) prohibiting the respondent from doing one or more things specified in the order.

(2) The conditions mentioned in *subsection (1)* are that—

(a) the respondent has been convicted, before or after the commencement of this Part, either—

(i) in the State of a sexual offence, or

(ii) in a place outside the State of an offence and the act constituting that offence would, if done in the State, constitute a sexual offence (within the meaning of this Act) under the law of the State,

and

(b) the respondent has, at a time referred to in *subsection (3)*, acted on one or more occasions in such a way as to give reasonable grounds for believing that an order under this section is necessary to protect the public from serious harm from him or her.

(3) The time mentioned in *paragraph (b)* of *subsection (2)* is any time subsequent to the date of the respondent's release from prison or, as the case may be, the date on which the sentence imposed on the respondent in respect of the offence referred to in that subsection otherwise ceases to be in force, being in either case a time after the commencement of this Part.

(4) A sex offender order shall contain only such prohibitions on the respondent's doing a thing or things as the court considers necessary for the purpose of protecting the public from serious harm from the respondent.

(5) References in this section to protecting the public from serious harm from the respondent shall be construed as references to protecting F32[the public, or a member of the public, from] death or serious personal injury, whether physical or psychological, which would be occasioned if the respondent were to commit a sexual offence at a time subsequent to the making of the application under this section.

(6) A sex offender order shall continue in force until the expiration of—

(a) 5 years from the date of notification of its making being given to the respondent, or

(b) such longer period as the court may provide for in the order.

(7) For so long as a sex offender order is in force, *Part 2* shall have effect as if—

(a) the respondent were subject to the requirements of that Part, and

(b) “relevant date” (within the meaning of that Part) were the date on which notification of the making of the sex offender order has been given to the respondent.

(8) *Subsection (7)* shall not operate to prevent a respondent's remaining subject to the requirements of *Part 2*, on the date that the sex offender order concerned ceases to be in force, if, by reason of the operation of *section 7* and *8* (including those sections as applied by *section 13*), he or she would remain so subject to those requirements.

(9) The reference in *subsection (3)* to the date of the respondent's release from prison is a reference to the date on which the sentence of imprisonment imposed on the respondent in respect of the offence referred to in *subsection (2)* (if such be the sentence imposed) expires or, as the case may be, the respondent's remission from the sentence begins.

F34[Monitoring compliance with sex offender order]

16A. — ...]

F35[Evidence of electronic monitoring under section 16A]

16B. — ...]

F36[Arrangements for electronic monitoring under section 16A]

16C. — ...]

Taking effect of sex offender order.

17. —(1) A sex offender order shall take effect on notification of its making being given to the respondent.

(2) Oral communication to the respondent by or on behalf of the applicant of the fact that a sex offender order has been made, together with production of a copy of the order, shall, without prejudice to the sufficiency of any other form of notification, be taken to be sufficient notification to the respondent of the making of the order.

(3) If the respondent is present at the sitting of the court at which the sex offender order is made, he or she shall be taken for the purposes of *subsection (1)* to have been notified of its making.

Effect of appeal from order.

18. —An appeal from a sex offender order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

Discharge or variation of sex offender order.

19. —(1) Where a sex offender order is in force, the court, on application to it in that behalf at any time by the respondent, may, if it is shown to the satisfaction of the court that—

(a) the protection F38[of the public, or a member of the public, from] serious harm from the respondent does not require that the order should continue in force, or

(b) the order's effect for the time being is the cause of injustice, discharge or, as may be appropriate, vary the order.

F39[(1A) Where a sex offender order is in force, the court, on application to it in that behalf at any time by a member of the Garda Síochána not below the rank of inspector, may, if it is shown to the satisfaction of the court that—

(a) the protection of the public, or a member of the public, from serious harm from the respondent requires the variation of the order, and

(b) such variation would not be a cause of injustice,

vary the order to the extent it deems necessary to protect the public, or a member of the public, from serious harm.

(1B) A variation of a sex offender order under *subsection (1A)* shall take effect on notification of the variation being given to the respondent.

(1C) Oral communication to the respondent by or on behalf of the applicant of the fact that a sex offender order has been varied, together with production of a copy of the order varying the sex offender order, shall, without prejudice to the sufficiency

of any other form of notification, be taken to be sufficient notification to the respondent of the variation.

(1D) If the respondent is present at the sitting of the court at which the sex offender order is varied, he or she shall be taken, for the purposes of subsection (1), to have been notified of its variation.]

(2) The court shall, on application to it in that behalf at any time by the applicant, discharge a sex offender order.

(3) The F38[references in subsections (1) and (1A)] to protecting the public from serious harm from the respondent shall be construed in accordance with section 16(5).

Court jurisdiction and venue.

20. —(1) The jurisdiction of the court in respect of civil proceedings under this Part may be exercised by the judge of the circuit where the respondent ordinarily resides or carries on any profession, business or occupation or by the judge of the circuit where the respondent is alleged to have acted in such a way as to give reasonable grounds for believing that the making of a sex offender order is or, as the case may be, was necessary.

(2) For the avoidance of doubt, subsection (1) applies in the case of section 19 notwithstanding that the sex offender order concerned was made by the High Court on appeal from a decision of the court refusing to make such an order.

Provisions in relation to evidence and proceedings under this Part.

21. —(1) The standard of proof required to determine any question relating to the making, varying, or discharge of a sex offender order shall be that applicable to civil proceedings.

(2) Proceedings under this Part (other than under section 22) in relation to a sex offender order shall be heard otherwise than in public.

Offence in respect of contravention of sex offender order.

22. —A respondent who, without reasonable excuse, contravenes a sex offender order shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or

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

Rules of court.

23. —(1) For the purpose of ensuring the expeditious hearing of applications under this Part, rules of court may make provision for the service of documents otherwise than under section 7 of the Courts Act, 1964 (as amended by section 22 of the Courts Act, 1971), in circumstances to which that section 7 relates.

(2) Rules of court shall provide for the documentation required for the commencement of proceedings under this Part.

(3) This section is without prejudice to section 17 of the Interpretation Act, 1937, which provides for rules of court.

Amendment of Civil Legal Aid Act, 1995.

24. — Section 28 of the Civil Legal Aid Act, 1995, is hereby amended by the substitution of the following subsection for subsection (3):

“(3) Where the proceedings the subject matter of the application under this section concern—

(a) the welfare of (including the custody of or access to) a child, or

(b) a sex offender order (within the meaning of the Sex Offenders Act, 2001),

paragraphs (c) and (e) of subsection (2) shall not apply.”.

PART 4

PROVISION OF INFORMATION FOR EMPLOYMENT PURPOSES

Interpretation
(Part 4).

25. —(1) In this Part—

“child” means a person who is less than 18 years of age;

“contract of employment” means—

(a) a contract of service or apprenticeship, or

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act, 1971, and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract),

whether the contract is express or implied and if express, whether it is oral or in writing;

F40[...]

“State work or a service” means work done or a service performed by a person who—

(a) holds office under, or is otherwise in the service of the State (including as a civil servant, within the meaning of the Civil Service Regulation Act, 1956),

(b) is a member of the Garda Síochána or the Defence Forces,

(c) is an officer or servant of a local authority for the purposes of the Local Government Act, 1941, or

F41[F42[(d) is an officer or servant of a harbour authority or a member of staff of an education and training board,] or

(e) is an employee of the Health Service Executive F43[or the Child and Family Agency].]

(2) In this Part a reference to a person applying to another person includes a reference to the person applying to another person without that other's having requested or solicited the making of the application.

Failure to inform
employer, etc., of
sexual offence
conviction.

26. —(1) In this section “relevant work” means work or a service (including State work or a service) a necessary and regular part of which consists, mainly, of the person referred to in subsection (3), (5) or (6) F44[having access to], or contact with, a child or children or a F44[vulnerable] person or persons.

(2) A person referred to in subsection (3) shall be guilty of an offence if he or she—

(a) applies to another person to be employed by that person to do relevant work,

(b) enters into a contract of employment to do relevant work,

(c) applies to another person to do relevant work on that other person's behalf (whether in return for payment or for any other consideration or not), or

(d) enters into a contract for services to do relevant work, without, during the course of the application or before entering into the contract, informing the

other person or the other party to the contract of the fact that he or she has been convicted of the offence referred to in subsection (3).

(3) The person mentioned in subsection (2) is a person who has been convicted, before or after the commencement of this Part, either—

- (a) in the State of a sexual offence, or
- (b) in a place outside the State of an offence and the act constituting that offence would, if done in the State, constitute a sexual offence (within the meaning of this Act) under the law of the State.

(4) In proceedings for an offence under subsection (2) it shall be a defence for the accused to prove that he or she neither knew nor could reasonably be expected to have known that the work to which the application or contract referred to in subsection (2) related was relevant work (within the meaning of this section).

(5) A person convicted, before or after the commencement of this Part, of an offence referred to in subsection (3) who—

- (a) does a thing referred to in any of paragraphs (a) to (d) of subsection (2) (and, in the case of paragraph (a) or (c) of that subsection, commences to do the work concerned), and
- (b) at the time he or she does such a thing, neither knows nor can reasonably be expected to know that the work concerned is relevant work (within the meaning of this section),

shall inform the other person or the other party to the contract referred to in subsection (2) of the fact that he or she has been convicted of that offence as soon as may be after he or she becomes aware of the fact that the work concerned is relevant work.

(6) A person who—

- (a) does a thing referred to in any of paragraphs (a) to (d) of subsection (2) (and, in the case of paragraph (a) or (c) of that subsection, commences to do the work concerned), and
- (b) is subsequently convicted of an offence referred to in subsection (3),

shall, unless, at the time of the conviction, the work he or she has applied to do is wholly completed or the contract he or she has entered into has expired or ceased to be in force, inform the person on whose behalf the work is being done or the other party to the contract, as soon as may be after the conviction, of the fact that he or she has been so convicted.

(7) A person who fails to comply with subsection (5) or (6) shall be guilty of an offence.

(8) A person guilty of an offence under subsection (2) or (7) shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 5 years or both.

F45[Part 4A]

PROHIBITION ON WORKING WITH CHILDREN AND VULNERABLE PERSONS

Interpretation
(Part 4A)**26A. —(1) In this Part—**

"applicable offender" means a person who, after the coming into operation of section 20 of the Sex Offenders (Amendment) Act 2023, is convicted of a sexual offence for which, in the opinion of the court before which the person appears, the appropriate sentence is, apart from the provisions of this Part, one of imprisonment for any term (whether in addition to the imposition of a fine or not);

"child" has the same meaning as it has in *Part 4*;

"prohibition" shall be construed in accordance with *section 26C(1)*;

"prohibition commencement date", in relation to an applicable offender, means—

(a) where the sentence of imprisonment referred to in *section 26D(1)(a)* is suspended in its entirety, the date on which the sentence is imposed on the offender,

(b) where that sentence of imprisonment is suspended in part, the date on which the offender is released from prison, or

(c) in any other case, the date on which—

(i) the sentence expires,

(ii) the offender's remission from the sentence begins, or

(iii) the offender is released on parole in accordance with the Parole Act 2019;

"prohibition period" shall be construed in accordance with *section 26D(1)(b)*;

"relevant work" has the same meaning as it has in *section 26*;

"sentence including a prohibition" shall be construed in accordance with *section 26D(1)*.

(2) In this Part—

(a) references to protecting a child or a vulnerable person from serious harm from an applicable offender shall be construed as references to protecting a child or a vulnerable person from death or serious personal injury, whether physical or psychological, which would be occasioned if the offender were to commit a sexual offence after he or she has been released into the community, and

(b) a reference to a person applying to another person includes a reference to the person applying to another person without that other's having requested or solicited the making of the application.]

F46[Part 4A
without prejudice
to Part 5]

26B. —This Part is without prejudice to *Part 5* and a prohibition may be imposed on an applicable offender under *section 26D*—

(a) regardless of whether a sentence involving post supervision release (within the meaning of *Part 5*) is being imposed on the offender, and

(b) where such a sentence is being imposed on the offender, in addition to that sentence.]

F47[Duty of
court to consider
imposition of
sentence
involving
prohibition]

26C. —(1) In determining the sentence to be imposed on an applicable offender in respect of the sexual offence concerned, the court shall consider whether to impose a sentence including a prohibition on the offender engaging in relevant work ("a prohibition").

(2) In considering that matter, the court shall have regard to—

(a) the need to protect children or vulnerable persons from serious harm from the offender, and

(b) the need to prevent the commission by the applicable offender of subsequent sexual offences.

(3) For the purposes of this Part, the court may, if it thinks it necessary to do so, receive evidence or submissions from any person concerned.]

F48[Power of court to impose prohibition

26D. —(1) Subject to *subsections (2) and (3)*, a court may, where it is satisfied that it is necessary to do so to protect children or vulnerable persons from serious harm from the applicable offender, having regard to the matters specified in *section 26C(2)*, impose on an applicable offender in respect of the sexual offence concerned a sentence including a prohibition, that is to say a sentence which consists of—

(a) the imposition of a sentence of imprisonment (whether in addition to the imposition of a fine or not), and

(b) a provision that during a specified period ("the prohibition period") commencing on the prohibition commencement date, the offender shall be subject to the prohibition.

(2) The aggregate of the sentence of imprisonment referred to in *subsection (1)(a)* and the prohibition period shall not exceed the duration of the maximum term of imprisonment that may be imposed in respect of the sexual offence concerned.

(3) The term of the sentence of imprisonment referred to in *subsection (1)(a)* shall not be less than the term the court would have imposed if it had considered the matter apart from the provisions of this Part.

(4) The court may, when imposing a sentence including a prohibition, specify a particular type or category of relevant work to which the prohibition applies.]

F49[Duty of court to explain effect of sentence to offender

26E. —In imposing a sentence including a prohibition on an applicable offender, the court shall explain to him or her—

(a) the effect of the sentence,

(b) the consequences provided for under *section 26G* if he or she fails to comply with the prohibition, and

(c) that under this Act, the court may vary or discharge the prohibition on the application of either the offender or a probation officer.]

F50[Discharge or variation of prohibition

26F. —The court may, not more than one month before the proposed prohibition commencement date or at any time during the prohibition period, on the application of—

(a) the offender on whom the sentence including a prohibition was imposed, or

(b) a probation officer,

discharge or vary the prohibition, if, having regard to the circumstances which have arisen since the sentence was imposed—

(i) it would be in the interests of justice to do so, and

(ii) the protection of children or vulnerable persons from serious harm from the offender no longer requires that the prohibition should continue in force or, as appropriate, that it should continue in force in the form in which it stands at the date of the making of the application.]

F51[Non-compliance] **26G.** —(1) A person on whom a sentence including a prohibition is imposed who, with prohibition during the prohibition period—

- (a) applies to another person to be employed by that person to do prohibited work,
- (b) enters into a contract of employment to do prohibited work,
- (c) applies to another person to do prohibited work on the other person's behalf (whether in return for payment or for any other consideration or not),
- (d) enters into a contract for services to do prohibited work, or
- (e) does prohibited work,

shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable—

- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or more.

(3) The conviction of a person for an offence under this section shall not prevent the prohibition period continuing to have effect.

(4) In proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he or she neither knew nor could reasonably be expected to have known that the work—

- (a) to which the application or contract referred to in paragraph (a), (b), (c) or (d) of that subsection related was prohibited work, or
- (b) that the work referred to in paragraph (e) of that subsection was prohibited work.

(5) If a sentence of imprisonment is imposed on an applicable offender for an offence under this section, that sentence shall, for the period the offender spends in prison on foot of that sentence, operate to suspend the prohibition and the period for which that prohibition is so suspended shall not be reckoned in calculating the date on which the prohibition period expires.

(6) In this section, "prohibited work", in relation to a person, means relevant work that is the subject of a sentence including a prohibition imposed on the person.]

PART 5

POST-RELEASE SUPERVISION FOR SEX OFFENDERS

Interpretation
(Part 5).

27. —(1) In this Part—

F52[...]

F52[...]

"sentence involving post-release supervision" shall be construed in accordance with **section 29(1)**;

"sex offender" means a person who, after the commencement of this Part, is convicted of a sexual offence for which, in the opinion of the court before which the person

appears, the appropriate sentence is, apart from the provisions of this Part, one of imprisonment for any term (whether in addition to the imposition of a fine or not);

“supervision period” shall be construed in accordance with *section 29(1)*;

“supervision period conditions” means the conditions referred to in *section 29(1)(b)* or *30* that relate to the sex offender concerned.

(2) References in this Part to protecting the public from serious harm from a sex offender shall be construed as references to protecting a member or members of the public from death or serious personal injury, whether physical or psychological, which would be occasioned if the offender were to commit a sexual offence after he or she has been released into the community.

Duty of court to consider imposition of sentence involving post-release supervision.

28. —(1) In determining the sentence to be imposed on a sex offender in respect of the sexual offence concerned, the court shall consider whether to impose a sentence involving post-release supervision.

(2) In considering that matter, the court shall have regard to—

- (a) the need for a period, after the offender has been released into the community, during which his or her conduct is supervised by a responsible person,
- (b) the need to protect the public from serious harm from the offender,
- (c) the need to prevent the commission by the offender of further sexual offences, and
- (d) the need to rehabilitate or further rehabilitate the offender.

(3) For the purposes of this section, the court may, if it thinks it necessary to do so, receive evidence or submissions from any person concerned.

Power of court to impose sentence involving post-release supervision.

29. —(1) F53[Without prejudice to Part 4A, a court may] impose on a sex offender in respect of the sexual offence concerned a sentence involving post-release supervision, that is to say a sentence which consists of—

- (a) the imposition of a sentence of imprisonment for a specified term (whether in addition to the imposition of a fine or not), and
- (b) a provision that during a specified period (“the supervision period”) commencing on the date of the offender's release from prison, the offender shall be under the supervision of a F53[probation officer] and requiring the offender to comply with such conditions as are specified in the sentence for securing that supervision.

(2) The aggregate of the sentence of imprisonment referred to in subsection (1)(a) and the supervision period shall not exceed the duration of the maximum term of imprisonment that may be imposed in respect of the sexual offence concerned.

(3) The term of the sentence of imprisonment referred to in subsection (1)(a) shall not be less than the term the court would have imposed if it had considered the matter apart from the provisions of this Part.

(4) In determining the period to be specified as the supervision period, the matters to which the court shall have regard shall include the matters referred to in paragraphs (a) to (d) of *section 28(2)*.

(5) The reference in this section to the date of the offender's release from prison is a reference to the date on which the offender's sentence of imprisonment referred to in subsection (1)(a) expires or, as the case may be, the offender's remission from the sentence begins.

F54[(6) In addition to the conditions referred to in subsection (1)(b), a sentence involving post-release supervision imposed after the commencement of this subsection shall include a condition requiring the sex offender to attend all appointments with the probation officer whose supervision he or she is under and to comply with the lawful instructions of that officer.]

Additional provisions which may be included in sentence involving post-release supervision.

30. —(1) In addition to the conditions referred to in *section 29(1)(b)*, a sentence involving post-release supervision may include such conditions as the court considers appropriate for the purposes of paragraphs (a) to (d) of *section 28(2)* and having regard to the needs of the sex offender.

(2) Without prejudice to the generality of subsection (1), there may be included in a sentence involving post-release supervision—

(a) a condition prohibiting the sex offender from doing such one or more things as the court considers necessary for the purpose of protecting the public from serious harm from the offender, and

(b) a condition requiring the sex offender to receive psychological counselling or other appropriate treatment provided by the F55[**Probation Service**] or any other body which it appears to the court, having regard to any submissions made to it on behalf of the F55[**Probation Service**], is an appropriate body to provide such counselling or treatment.

(3) A condition referred to in subsection (1) or (2) shall have effect during the whole or a specified part of the supervision period as the court considers appropriate and specifies in the sentence concerned.

F56[Power of court to amend conditions or include new conditions

30A. —(1) In any case where a court has imposed on a sex offender, for an offence committed after the commencement of this section, a sentence involving post-release supervision, the court may, on the application of a probation officer not more than one month before the date of the offender's intended release from prison or any time during the supervision period, amend any condition for securing that supervision referred to in *section 29(1)(b)* or additional condition referred to under *section 30* or include one or more further conditions pursuant to either of the aforesaid sections.

(2) In any case where a court has imposed on a sex offender, for an offence committed before the commencement of this section, a sentence involving post-release supervision, the court may, on the application of a probation officer not more than one month before the date of the offender's intended release from prison or any time during the supervision period, amend any condition or include one or more further conditions pursuant to *section 29(1)(b)* where such conditions are necessary for securing that supervision.

(3) *Subsection (2)* shall apply in respect of post-release supervision orders extant at the time of the commencement of this section.

(4) Any condition referred to in subsection (1) or (2), whether an amended condition or a new condition, shall have the same effect as a condition included in a sentence involving post-release supervision.

(5) In this section “the date of the sex offender's release from prison” means the date on which the sentence of imprisonment imposed on the sex offender expires, or as the case may be, his or her remission from the sentence begins.]

F58[Monitoring compliance with condition

30B. — ...]

F59[Evidence of electronic monitoring under section 30B

30C. — ...]

F60[Arrangements for electronic monitoring under section 30B

30D. — ...]

Duty of court to explain effect of sentence to offender.

31. — In imposing a sentence involving post-release supervision on a sex offender, the court shall explain to him or her—

- (a) the effect of the sentence,
- (b) the consequences provided for under *section 33* if he or she fails to comply with any of the supervision period conditions, and
- (c) that under this Act the court may vary or discharge any of those conditions on the application of either the offender or a F61[probation officer].

Discharge or variation of requirements relating to supervision period.

32. — At any time after the supervision period has commenced the court may, on the application of—

- (a) the offender on whom the sentence involving post-release supervision concerned was imposed, or
- (b) a probation and welfare officer,

discharge all of the supervision period conditions (and the supervision period shall lapse accordingly) or vary or discharge one or more of those conditions if, having regard to the circumstances which have arisen since the sentence was imposed, it considers—

- (i) it would be in the interests of justice to do so, and
- (ii) the protection of the public from serious harm from the offender no longer requires that those conditions should continue in force or, as appropriate, that they should continue in force in the form in which they stand at the date of the making of the application.

Non-compliance with requirements relating to supervision period.

33. — (1) A sex offender who fails, without reasonable excuse, to comply with any of the supervision period conditions shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both.

(2) Subject to *subsection (3)*, the conviction of a sex offender for an offence under this section shall not prevent the supervision period conditions from continuing to have effect.

(3) If a sentence of imprisonment is imposed on a sex offender for an offence under this section, that sentence shall, for the period the offender spends in prison on foot of that sentence, operate to suspend the supervision period conditions and the period for which those conditions are so suspended shall not be reckoned in calculating the date on which the supervision period expires.

F62[(4) Proceedings for an offence under *subsection (1)* may be brought and prosecuted by a F63[probation officer].]

MISCELLANEOUS

Amendment of
Criminal Law
(Rape) Act, 1981.

34. —The *Criminal Law (Rape) Act, 1981*, is hereby amended by the insertion after section 4 of the following section:

“Legal representation for complainants.

4A.—(1) Where an application under section 3 or 4 is made by or on behalf of an accused person who is for the time being charged with an offence to which this section applies, the complainant shall be entitled to be heard in relation to the application and, for this purpose, to be legally represented during the hearing of the application.

(2) Notice of intention to make an application under section 3 or 4 shall be given to the prosecution by or on behalf of the accused person before, or as soon as practicable after, the commencement of the trial for the offence concerned or, as the case may be, the commencement of the proceeding concerned referred to in section 4(1).

(3) The prosecution shall, as soon as practicable after the receipt by it of such a notice, notify the complainant of his or her entitlement to be heard in relation to the said application and to be legally represented, for that purpose, during the course of the application.

(4) The judge shall not hear the said application without first being satisfied that subsections (2) and (3) have been complied with.

(5) If the period between the complainant's being notified, under subsection (3), of his or her entitlements under this section and the making of the said application is not, in the judge's opinion, such as to have afforded the complainant a reasonable opportunity to arrange legal representation of the kind referred to in this section, the judge shall postpone the hearing of the application (and, for this purpose, may adjourn the trial or proceeding concerned) for a period that the judge considers will afford the complainant such an opportunity.

(6) This section applies to a rape offence and any of the following, namely, aggravated sexual assault, attempted aggravated sexual assault, aiding, abetting, counselling and procuring aggravated sexual assault or attempted aggravated sexual assault, incitement to aggravated sexual assault and conspiring to commit any of the foregoing offences.”.

Further
amendments of
Civil Legal Aid
Act, 1995.

35. —(1) In this section “the Act of 1995” means the *Civil Legal Aid Act, 1995*.

(2) In addition to the meaning assigned to that expression by section 27 of the Act of 1995, “legal aid” in the Act of 1995 means representation by a solicitor or barrister, engaged by the Legal Aid Board under section 11 of that Act, on behalf of a complainant in relation to an application referred to in section 4A of the *Criminal Law (Rape) Act, 1981*, that concerns the complainant.

(3) Section 28 of the Act of 1995 is hereby amended by the insertion of the following subsection after subsection (5):

“(5A) Notwithstanding any other provision of this Act, the Board shall grant a legal aid certificate to a complainant for the purpose of his or her being represented in relation to an application referred to in section 4A of the *Criminal Law (Rape) Act, 1981*, that concerns him or her.”.

Proof of foreign
conviction in
certain cases.

36. —(1) In proceedings against a person for an offence under—

- (a) *section 12* (where the person is a person referred to in *section 13(1)*), or
- (b) *section 26* (where the person is a person referred to in *subsection (2), (5) or (6)* of that section and falls within *subsection (3)(b)* of that section),

the production to the court of a document that satisfies the condition referred to in *subsection (2)* and which purports to contain either or both—

- (i) particulars of the conviction in a state, other than the State, of that person for an offence and of the act constituting the offence,
- (ii) a statement that, on a specified date, that person was subject to the first-mentioned requirement in *section 13(1)(b)(ii)*,

shall, without further proof, be evidence, until the contrary is shown, of the matters stated in it.

(2) The condition mentioned in *subsection (1)* is that the document concerned purports to be signed or certified by a judge, magistrate or officer of the state referred to in that subsection and to be authenticated by the oath of some witness or by being sealed with the official seal of a minister of state of that state (judicial notice of which shall be taken by the court).

(3) That condition shall be regarded as being satisfied without proof of the signature or certification, and the authentication of it, that appears in or on the document.

Amendment of
section 2 of Act
of 1990.

37. —(1) Section 2 of the Act of 1990 is amended by the substitution of the following subsection for subsection (2):

“(2) (a) A person guilty of sexual assault shall be liable on conviction on indictment—

- (i) in case the person on whom the assault was committed was a child, to imprisonment for a term not exceeding 14 years, and
- (ii) in any other case, to imprisonment for a term not exceeding 10 years.

(b) In this subsection ‘child’ means a person under 17 years of age.

(2) The amendment effected by *subsection (1)* shall apply to sexual assaults committed after the commencement of this section.

Section 3.

SCHEDULE

SEXUAL OFFENCES FOR PURPOSES OF ACT

1. Rape.

2. Sexual assault (whether the offence of which the person was convicted was known by that name or by the name "Indecent assault upon a female person" or "Indecent assault upon a male person").

3. Aggravated sexual assault (within the meaning of section 3 of the Act of 1990).

4. Rape under section 4 of the Act of 1990.

5. An offence under section 1 of the Act of 1908 (incest by males).

6. An offence under section 2 of the Act of 1908 (incest by females of or over 17 years of age).

F64[7. An offence under the Criminal Law (Sexual Offences) Act 2006.]

F65[7A. An offence under section 1 of the Act of 1935 (defilement of girl under 15 years of age).]

8. An offence under section 2 of the Act of 1935 (defilement of girl between 15 and 17 years of age).]

9. The offence of buggery with a person or with an animal referred to in section 61 of the Act of 1861.

10. The offence of an attempt to commit such buggery referred to in section 62 of the Act of 1861.

11. An offence under section 3 of the Act of 1993 (buggery of persons under 17 years of age).

12. An offence under section 4 of the Act of 1993 (gross indecency with males under 17 years of age).

13. An offence under section 11 of the Criminal Law Amendment Act, 1885 (acts of gross indecency).

14. An offence under section 5 of the Act of 1993 (protection of mentally impaired persons).

15. An offence under section 4 of the Act of 1935 (defilement of mentally impaired females).

16. An offence under any of the following provisions of the **Child Trafficking and Pornography Act, 1998** —

(a) section 3 (child trafficking and taking, etc., child for sexual exploitation),

(b) section 4 (allowing child to be used for child pornography),

F66[(ba) section 4A (child prostitution and child pornography);]

(c) section 5 (producing, distributing, etc., child pornography),

F66[(ca) section 5A (participation of child in pornographic performance);]

(d) section 6 (possession of child pornography).

F67[16A. An offence under the Criminal Law (Human Trafficking) Act 2008 in so far as the offence is committed for the purposes of the sexual exploitation of a person.]

17. An offence under section 2 of the Sexual Offences (Jurisdiction) Act, 1996 (sexual offences committed outside the State).

F66[17A. An offence under the following provisions of the Criminal Law (Sexual Offences) Act 2017:

- (a) section 3 (obtaining, providing etc. a child for purpose of sexual exploitation);
- (b) section 4 (invitation etc. to sexual touching);
- (c) section 5 (sexual activity in presence of child);
- (d) section 6 (causing child to watch sexual activity);
- (e) section 7 (meeting child for purpose of sexual exploitation);
- (f) section 8 (use of information and communication technology to facilitate sexual exploitation of child);
- (g) section 21 (sexual act with protected person);
- (h) section 22 (offence against relevant person by person in authority).]

18. An offence consisting of attempting to commit an offence referred to in any of paragraphs 1 to 17 of this Schedule (other than such an offence that itself consists of an attempt to do a particular act).

19. An offence consisting of aiding, abetting, counselling, procuring or inciting the commission of an offence referred to in any of paragraphs 1 to 18 of this Schedule.

20. An offence consisting of conspiracy to commit an offence referred to in any foregoing paragraph of this Schedule.

F68[21. An offence under section 6 (inserted by section 2 of the Criminal Law (Sexual Offences) (Amendment) Act 2007) of the Criminal Law (Sexual Offences) Act 1993.]



Number 18 of 2001

SEX OFFENDERS ACT 2001

REVISED

Updated to 13 November 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.