



**An Bille um an Dlí Coiriúil, an Dlí Sibhialta agus Cosaint (Forálacha
Ilghnéitheacha), 2026**
Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Bill 2026

Mar a ritheadh ag dhá Theach an Oireachtais

As passed by both Houses of the Oireachtas

period specified in that resolution and expiring on the commencement of the next sitting of the annual licensing District Court, after such expiration, in the licensing area in which the licensed premises concerned is situated, and

- (b) the Act of 2021 shall, notwithstanding the expiration of the period specified in that resolution, continue to apply in respect of that outdoor seating area during that further period. 5

PART 17

DISREGARD OF CERTAIN HISTORICAL CONVICTIONS AND OTHER DETERMINATIONS

Interpretation (*Part 17*)

60. In this Part— 10

“Act of 1907” means the Probation of Offenders Act 1907;

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“additional information”, in relation to an application, includes a media report (howsoever described), relating to the arrest, questioning, cautioning, charging, proceedings on foot of the charge but preliminary to the conviction, prosecution, conviction or sentencing of a person, in respect of which the applicable conviction or other determination relates; 15

“applicable activity” means, in relation to an application, the sexual activity or activities to which an applicable conviction or other determination concerned relates; 20

“applicable conviction or other determination” means a conviction or other determination the subject of an application;

“applicant” has the meaning assigned to it by *section 62*;

“application” has the meaning assigned to it by *section 61*;

“caution” means a formal written warning or notice administered to a person by a member of An Garda Síochána in lieu of the person being charged with an offence; 25

“certificate of disregard” has the meaning assigned to it by *section 66*;

“circumstances ancillary” means, in relation to a conviction or other determination, any or all of the following:

- (a) the offence the subject of the conviction or other determination; 30
- (b) the conduct constituting that offence;
- (c) any arrest, questioning or cautioning of the relevant person prior to being charged with the offence;
- (d) the charging of the relevant person with the offence;
- (e) any proceedings on foot of the charge but preliminary to the conviction or other determination; 35

- (f) any penalty or other order of a court concerned, made on foot of the conviction;
 - (g) any proceedings, by way of appeal or otherwise, for reviewing the conviction or other determination or any penalty imposed on foot of the conviction;
 - (h) anything done in pursuance of, or undergone in compliance with, any order made in connection with or as a result of the conviction or other determination; 5
- “civil partner” shall be construed in accordance with section 3 of the Act of 2010;
- “cohabitant” means a cohabitant within the meaning of section 172(1) of the Act of 2010;
- “consent” has the same meaning as it has in section 9 of the Criminal Law (Rape) (Amendment) Act 1990;
- “conviction”, in relation to a person, means the conviction by a court of the person of an offence or, in the case of an appeal whether against conviction or sentence or both, the final determination by a court of the appeal, or the withdrawal of the appeal; 10
- “disregard” shall be construed in accordance with *section 67*;
- “disregarded conviction or other determination” means a conviction or other determination in respect of which a certificate of disregard is in effect; 15
- “enactment” has the same meaning as it has in the Interpretation Act 2005;
- “guardian” means, in relation to a relevant person who is deceased, a person who—
- (a) was a guardian of the relevant person pursuant to the Guardianship of Infants Act 1964, or
 - (b) was appointed to be the guardian of the relevant person by— 20
 - (i) a deed or will, or
 - (ii) an order of a court in the State,
 and was not removed from office;
- “immediate family member” means, in relation to a relevant person who is deceased, a parent, step-parent, guardian, spouse, civil partner, cohabitant, partner or child of the relevant person; 25
- “independent assessor” has the meaning assigned to it by *section 70*;
- “independent assessor’s recommendation” has the meaning assigned to it by *section 70*;
- “independent person” has the meaning assigned to it by *section 63*;
- “independent person’s recommendation” has the meaning assigned to it by *section 65*; 30
- “independent reviewer” has the meaning assigned to it by *section 63*;
- “independent reviewer’s recommendation” has the meaning assigned to it by *section 68*;
- “Irish Prison Service” means the prison service of the Department of Justice, Home Affairs and Migration, which is charged with the management of prisons within the meaning of section 2 of the Act of 2007; 35
- “notice of revocation” has the meaning assigned to it by *section 71*;

“other determination” means, in relation to a person—

- (a) a caution administered to the person, or
- (b) an order made by a court in respect of the person under section 1(1) of the Act of 1907;

“participant” means a person who participated in any of the applicable activity or whose participation was sought by whatever means; 5

“partner” means, in relation to a relevant person who is deceased, a person who was in an intimate and committed personal relationship with the relevant person immediately prior to the relevant person’s death;

“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; 10

“public body” means—

- (a) An Garda Síochána,
- (b) the Courts Service, 15
- (c) the Defence Forces,
- (d) the Irish Prison Service,
- (e) the Office of the Attorney General,
- (f) the Office of the Chief State Solicitor,
- (g) the Office of the Director of Public Prosecutions, or 20
- (h) the Probation Service;

“record” includes a part of a record and a copy of a record;

“relative” means, in relation to a relevant person who is deceased, a brother, step-brother, sister, step-sister, grandchild, uncle, aunt, niece, nephew, grandniece or grandnephew of the relevant person; 25

“relevant conviction or other determination”, in relation to a person, means—

- (a) the conviction of the person on or after 6 December 1922 by a court of criminal or military jurisdiction—
 - (i) of the offence of buggery, or
 - (ii) of an offence under— 30
 - (I) section 62 of the Offences against the Person Act 1861,
 - (II) section 11 of the Criminal Law Amendment Act 1885, or
 - (III) section 1(1)(b) of the Vagrancy Act 1898,

or

- (b) an other determination in relation to an offence referred to in *paragraph (a)*; 35

“relevant person” has the meaning assigned to it by *section 61*;

“sexual activity” includes alleged or attempted sexual activity or the solicitation of such activity;

“transferred record” means a record transferred by a public body to the National Archives under the National Archives Act 1986.

Application for certificate of disregard

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- 61.** (1) A person (in this Part referred to as a “relevant person”) who has a relevant conviction or other determination, or if the relevant person is deceased, a person referred to in *section 62(1)(c)* or *(d)*, may apply to the Minister under *section 62* for a certificate of disregard in respect of that relevant conviction or other determination (in this Part referred to as an “application”) where— 10
- (a) the conduct constituting the offence was sexual activity between persons of the same sex, and
 - (b) the relevant person, or, where appropriate, a person referred to in *section 62(1)(c)* or *(d)* considers that—
 - (i) each of the criteria specified in *subsection (2)* is satisfied, or 15
 - (ii) *subsection (3)* applies in relation to the relevant person.
- (2) The criteria referred to in *subsection (1)(b)(i)* are the following:
- (a) the relevant person did not cause, or attempt to cause, another person to participate in any of the sexual activity concerned without the consent of that other person; 20
 - (b) the relevant person did not engage, or attempt to engage, in any of the sexual activity concerned with another person who—
 - (i) subject to *subsection (4)*, was under the age of 17 years, or
 - (ii) bore the characteristics of a protected person (within the meaning of section 21 of the Act of 2017); 25
 - (c) the relevant person was not, at the time of any of the sexual activity concerned, a person in authority (within the meaning of section 1 of the Criminal Law (Sexual Offences) Act 2006) in relation to another participant in the sexual activity concerned who—
 - (i) was over the age of 17 years but under the age of 18 years, or 30
 - (ii) bore the characteristics of a relevant person (within the meaning of section 22 of the Act of 2017);
 - (d) the relevant person did not, in the course of the sexual activity, engage in conduct referred to in section 5 of the Act of 2017;
 - (e) the relevant person did not pay, give, offer, or promise to pay or give another person money or any other form of remuneration or consideration for the purpose of participating in any of the sexual activity concerned; 35
 - (f) the sexual activity would not, if occurring in the same circumstances at the time that the relevant person makes the application, constitute an offence.

- (3) The criteria specified in *subsection (2)* shall not apply in circumstances where the relevant person was compelled, coerced or deceived into participating in the sexual activity or otherwise did not consent to the sexual activity the subject of the conviction or other determination, as the case may be.
- (4) *Subsection (2)(b)(i)* shall not apply where any person under the age of 17 years, with whom the relevant person engaged in any of the sexual activity, was at the time the activity concerned took place—
 - (a) either—
 - (i) older than the relevant person, or
 - (ii) not more than 2 years younger than the relevant person,
 - (b) not under 15 years of age, and
 - (c) not the subject of a relationship which involved intimidation or exploitation by the relevant person.
- (5) Notwithstanding *subsection (2)(f)*, the relevant person or, where appropriate, a person referred to in *section 62(1)(c)* or *(d)* may make an application where he or she believes—
 - (a) (for such reasons as shall be stated in the application) that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature, and
 - (b) the criteria specified in *paragraphs (a) to (e)* of *subsection (2)* are satisfied.

Procedure for making applications

62. (1) An application may be made to the Minister—

- (a) by the relevant person concerned,
- (b) by a person nominated in writing by the relevant person to make the application on the relevant person's behalf,
- (c) where the relevant person is deceased, by an immediate family member, or
- (d) where the relevant person is deceased but there is no immediate family member who can or wishes to make an application, by a relative, other than where there is an objection by an immediate family member to such an application being made in respect of the relevant person,

and a person who makes an application shall in this Part be referred to as an “applicant”.

- (2) An application shall be in writing and in such form and contain such information as the Minister may specify and—
 - (a) may include such additional information as the applicant considers relevant to the application,
 - (b) may be accompanied by a statutory declaration made by the relevant person, or another participant in the sexual activity concerned, stating that the relevant

conviction or other determination which is the subject of the application satisfies the criteria under *section 61* for a certificate of disregard, and

- (c) shall, where an application is one to which *section 61(5)* applies, set out the reasons as to why the relevant person or, where appropriate, a person referred to in *subsection (1)(c)* or *(d)*, believes that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature. 5
- (3) An application shall be made within a period of 24 months of the commencement of this Part, however, the Minister may, at his or her discretion, accept and consider an application made after the expiry of this period. 10
- (4) A fee shall not be payable to the Minister in relation to an application.

Appointment of persons to consider applications and undertake reviews

- 63.** (1) The Minister shall appoint one or more persons on such terms and conditions as the Minister may determine for the following purposes:
- (a) to consider applications under *sections 64* and *65* (in this Part referred to as an “independent person”); 15
 - (b) to carry out reviews under *section 68* (in this Part referred to as an “independent reviewer”).
- (2) A person shall not be appointed under *subsection (1)* unless the Minister is satisfied that the person is suitable to be so appointed by reason of his or her possessing such relevant experience, qualifications or specialist knowledge, or satisfying such other criteria, as the Minister considers appropriate having regard to the functions of the person under this Part. 20
- (3) The Minister may request in writing a person appointed under this section to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request. 25

Preliminary assessment of applications

- 64.** (1) An independent person shall, in respect of any application before him or her, consider the application and may request from any person such further information as the independent person reasonably considers necessary to verify— 30
- (a) the identity of the applicant,
 - (b) where applicable, the relationship of the applicant to the relevant person, and
 - (c) where *section 62(1)(d)* applies, confirmation of the circumstances giving rise to the application being brought by the applicant concerned. 35
- (2) Where the independent person, having had regard to the application and such information, if any, as he or she has obtained under this section, is not satisfied that the applicant is a person who may make the application in accordance with

section 62(1), the independent person shall not consider the application further and shall notify in writing—

- (a) the applicant, informing him or her of the decision and the reasons for that decision, and that he or she may make a request in writing to the Minister, within 28 days of the date of the notification, to seek a review of the decision under *section 68*, and 5
 - (b) the Minister, informing him or her of the decision, accompanied by the application and such other information, if any, that the independent person obtained in relation to the application.
- (3) Where the independent person, having had regard to such information, if any, as he or she has obtained under this section, is satisfied that the applicant is a person who may make the application in accordance with *section 62(1)*, the independent person shall proceed to consider the application under *section 65*. 10

Consideration by independent person of application

65. (1) An independent person may, for the purposes of considering an application, request in writing a public body to furnish him or her with copies of any records that the public body may hold or any transferred records that the public body may formerly have held, which are, or may be, relevant to the consideration of the application, including any record relating to or referencing the arrest, questioning, caution, charge, prosecution, making of an order under section 1(1) or (2) of the Act of 1907, conviction, sentencing, imprisonment or probation supervision of any person in connection with the application concerned. 15 20
- (2) Where a public body receives a request from an independent person under *subsection (1)*, the public body shall within 60 days of the date of the request or such longer period as the independent person may allow— 25
- (a) provide the independent person with a copy of any record requested, or
 - (b) where the public body is unable to locate any such record, notify the independent person of that fact.
- (3) Having had regard to such information as is contained in the application and such further information, if any, as the independent person may have obtained from a public body under *subsection (2)*, the independent person shall, if he or she considers it necessary, make all further reasonable efforts to locate and obtain such additional information as may assist the independent person to— 30
- (a) verify the existence of the applicable conviction or other determination,
 - (b) determine whether the applicable conviction or other determination is a relevant conviction or other determination, or 35
 - (c) consider whether the relevant conviction or other determination satisfies the criteria under *section 61* for a certificate of disregard.
- (4) An independent person may consult with any person whom the independent person reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent person. 40

- (5) An independent person, in considering an application, shall consider whether the criteria in *section 61* are satisfied and shall consider all other information in his or her possession pursuant to this section for those purposes.
- (6) Without prejudice to the generality of *subsection (5)*, in a case of an application to which *section 61(5)* applies, the independent person shall consider— 5
 - (a) whether it is likely that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had that activity been heterosexual in nature, and
 - (b) in considering *paragraph (a)*, whether a person, other than a person engaging in the sexual activity concerned, would have been able to observe the sexual activity without actively seeking out the said activity for the purpose of so observing. 10
- (7) An independent person shall, having considered the application concerned in accordance with this section, make a recommendation in writing (in this Part referred to as an “independent person’s recommendation”), providing reasons for that recommendation, to the Minister within 4 months of receipt of the application or such longer period as the Minister may allow, advising the Minister that the independent person— 15
 - (a) is satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard be issued, or 20
 - (b) is not satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard should not be issued.
- (8) An independent person’s recommendation shall be accompanied by the application, all records and any other information that the independent person obtained in relation to the application. 25

Consideration by Minister of recommendations, etc.

- 66.** (1) Where the Minister receives an independent person’s recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the applicable conviction or other determination should be disregarded, issue to the applicant a certificate (in this Part referred to as a “certificate of disregard”) in respect of the relevant conviction or other determination, or 30
 - (b) if not satisfied that the applicable conviction or other determination should be disregarded, notify, in writing, the applicant— 35
 - (i) that the Minister has decided to refuse to issue a certificate of disregard, giving reasons for that decision, and
 - (ii) that he or she may in writing, within 28 days of the date of the notification, request a review of the decision under *section 68*.
- (2) A certificate of disregard shall bear the official seal of the Minister and shall have effect from the date of issue. 40

- (3) Where the Minister issues a certificate of disregard under *subsection (1)(a)*—
- (a) the Minister shall, as soon as practicable, notify, or cause to be notified, each public body which holds or may hold (or which may have transferred to the National Archives) a record relating to the disregarded conviction or other determination or any circumstances ancillary thereto of the certificate of disregard in respect of the conviction or other determination concerned, and 5
 - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record (including any transferred record) in order to record the disregard of the applicable conviction or other determination in such manner as does not in any way amend or otherwise alter the record itself but which ensures that, if such record is subsequently consulted or processed for any purpose, the fact of such disregard is clearly and immediately visible. 10

General effect of certificate of disregard and related matters

67. (1) A person shall not be required—

- (a) by any enactment or rule of law, 15
 - (b) pursuant to the exercise of any law of the State or of another state, or
 - (c) by the provisions of any agreement or arrangement with any party in the State or another state which purports to require the person to disclose a conviction or other determination incurred by the person or any circumstances ancillary thereto, 20
- to disclose a disregarded conviction or other determination or any circumstances ancillary thereto.
- (2) Notwithstanding any other enactment or rule of law, where a question is put to a person purporting to seek information in relation to the person's previous convictions or other determinations or any circumstances ancillary thereto— 25
- (a) the question shall be regarded as not applying to a disregarded conviction or other determination and the person may respond accordingly, and
 - (b) the person shall not incur any liability or be otherwise prejudiced in law because that person did not disclose the disregarded conviction or other determination or circumstances ancillary thereto. 30
- (3) Notwithstanding any other enactment or rule of law, in any proceedings before a court—
- (a) no evidence shall be admissible to show that a person has—
 - (i) committed,
 - (ii) been arrested in relation to, 35
 - (iii) received a caution in relation to,
 - (iv) been charged with,
 - (v) been prosecuted for,
 - (vi) received a conviction for,

- (vii) been the subject of an order under section 1(1) or (2) of the Act of 1907, or
- (viii) been sentenced in respect of,
- an offence the subject of a disregarded conviction or other determination, and
- (b) in any such proceedings the person shall not be asked, and if asked shall not be required to answer, any question which cannot be answered without disclosing the disregarded conviction or other determination or circumstances ancillary thereto. 5
- (4) *Subsections (1) to (3) are without prejudice to the right of a person to disclose a disregarded conviction or other determination of which the person is the subject.*
- (5) Notwithstanding any other enactment or rule of law, where an enquiry is put to An Garda Síochána under any procedure whereby a person may lawfully seek information regarding any conviction or other determination incurred by another person, An Garda Síochána shall not, in response to such enquiry, disclose a disregarded conviction or other determination or any circumstances ancillary thereto. 10
- (6) Where An Garda Síochána provides a copy of a person's criminal record at that person's request, An Garda Síochána shall not include information relating to a disregarded conviction unless so requested by the person and, if so requested, shall provide such information separately from information concerning that person's other convictions (if any). 15
- (7) Where a conviction or other determination has been disregarded, the fact of such conviction or other determination, or any circumstances ancillary thereto, shall not be a proper ground for dismissing or excluding the person the subject of said conviction or other determination from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment. 20
- (8) This section applies to a response given on or after the date of issue of a certificate of disregard to— 25
- (a) a request made (either orally or in writing), or
- (b) a requirement notified (either orally or in writing),
- before or after the said date seeking, or requiring, as the case may be, information in relation to a person's previous convictions or other determinations where the information sought or required, as the case may be, relates to a conviction or other determination to which the said certificate of disregard applies. 30
- (9) In this section—
- “court” means any court in the State exercising jurisdiction under civil, criminal or military law; 35
- “state”, in relation to a state other than the State, includes a territory, whether in the state or outside it, for whose external relations the state or its government is wholly or partly responsible and references to a state shall be construed as including references to a subdivision of the government of the state or a national, regional or local entity of the state. 40

Reviews of decisions

68. (1) An applicant may request in writing a review of a decision made under *section 64(2)* or *66(1)(b)*, and where he or she does so, the request shall include reasons for seeking the review and may be accompanied by such supporting documentation as the applicant considers appropriate for the purpose of the review. 5
- (2) Where the Minister receives a request for a review under *subsection (1)* he or she shall, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person, other than the independent person who made the decision under *section 64(2)* or the recommendation under *section 65*, as the case may be, as an independent reviewer for the purposes of carrying out a review. 10
- (3) The Minister shall, upon appointing an independent reviewer, provide him or her with a copy of the application, any records or information obtained by the independent person under *section 64* or *65*, as the case may be, and where applicable, the independent person's recommendation under *section 65*. 15
- (4) *Section 64(1)* shall apply to a review of a decision made under *section 64(2)* as it applies to a consideration by an independent person of an application under that section, with any necessary modifications.
- (5) *Subsections (3) to (6) of section 65* shall apply to a review of a decision made under *section 66(1)(b)* as they apply to a consideration by an independent person of an application under that section, with any necessary modifications. 20
- (6) An independent reviewer shall, having reviewed the documentation provided under *subsection (3)* and any information obtained under this section, make a recommendation in writing (in this Part referred to as an "independent reviewer's recommendation"), providing reasons for that recommendation, to the Minister within 25 28 days after the independent reviewer was appointed or such longer period as the Minister may allow, as to whether or not the Minister should—
- (a) affirm the decision made under *section 64(2)*, or
- (b) affirm the decision made under *section 66(1)(b)*.
- (7) The Minister, having considered an independent reviewer's recommendation made 30 under *subsection (6)(a)*, may—
- (a) decide to affirm the decision made under *section 64(2)* and refuse to consider the application further, in which case the Minister shall inform in writing the applicant of the decision and give reasons for that decision, or
- (b) decide to refuse to affirm the decision made under *section 64(2)*, in which case 35 the Minister shall inform in writing the applicant of the decision.
- (8) Where *subsection (7)(b)* applies, the Minister shall, under *section 63(1)(a)*, appoint a person (other than the independent person who made the decision under *section 64(2)* or the independent reviewer who considered or reviewed the decision concerned) to proceed to consider the application under *section 65*. 40

- (9) The Minister, having considered an independent reviewer's recommendation made under *subsection (6)(b)*, may—
- (a) refuse to issue a certificate of disregard, in which case the Minister shall inform in writing the applicant and give reasons for the decision, or
 - (b) issue a certificate of disregard, in which case the Minister shall, accordingly, 5
issue such certificate under *section 66*.

Public body obligation to bring certain information to attention of Minister

69. Where, having been notified of the issuance of a certificate of disregard in respect of a relevant person under *section 66(3)(a)*, a public body subsequently becomes aware of information which might reasonably be grounds for a belief that the application upon 10
which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, the public body shall, as soon as practicable, bring such information to the attention of the Minister.

Revocation of certificate of disregard

70. (1) Where, subsequent to the issuance of a certificate of disregard in respect of a relevant 15
person, the Minister—
- (a) having received information, under *section 69* or otherwise, which causes him or her to reasonably believe—
 - (i) that an application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or 20
documentation, and
 - (ii) that, in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard be issued in respect of the relevant conviction or other determination concerned had the application not included, or had it not been supported by, such false or misleading 25
information or documentation,
 - and
 - (b) having consulted with such persons as he or she reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters concerned, 30
- is no longer satisfied that the disregarded conviction or other determination concerned should be the subject of a certificate of disregard, the Minister shall notify in writing the applicant concerned that he or she proposes to revoke the certificate of disregard.
- (2) A notification under *subsection (1)* shall—
- (a) set out the reasons for the Minister's belief that the certificate of disregard in 35
respect of the disregarded conviction or other determination concerned should be revoked, and
 - (b) inform the applicant that he or she may in writing, within 28 days of the date of the notification, request a review of the proposed revocation.

- (3) An applicant may in writing request a review under *subsection (2)(b)* and any such request—
- (a) shall include the reasons why the applicant considers that the certificate of disregard should not be revoked, and
 - (b) may be accompanied by such supporting documentation as the applicant considers appropriate. 5
- (4) Where the Minister receives a request for a review of a proposed revocation under *subsection (3)*, he or she shall, subject to *subsection (5)*, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person (in this Part referred to as an “independent assessor”), other than the independent person who considered the application under *section 64* or *65* or, where applicable, the independent reviewer who carried out a review under *section 68*, to carry out such review of the proposed revocation. 10
- (5) The Minister shall appoint on such terms and conditions as he or she may determine a retired judge of the Circuit Court, the High Court, the Court of Appeal or the Supreme Court to be an independent assessor to undertake a review under this section. 15
- (6) The Minister shall, upon appointing an independent assessor, provide him or her with—
- (a) a copy of the application together with any records or information obtained under *section 65* and the recommendation under that section, and where applicable, any information obtained under *section 68*, and 20
 - (b) the information referred to in *subsection (1)*.
- (7) An independent assessor shall, if he or she considers it necessary, make such further reasonable efforts to locate and obtain such additional information as may assist the independent assessor to carry out a review of a proposed revocation. 25
- (8) An independent assessor may consult with any person whom the independent assessor reasonably considers may be appropriate by reason of that other person’s experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent assessor.
- (9) An independent assessor shall, within 14 days of his or her appointment or such longer period as the Minister may allow, review the documentation provided under *subsection (6)* and any information obtained under this section, and shall consider whether he or she is satisfied— 30
- (a) that the application included, or was supported by, false or misleading information or documentation, and 35
 - (b) that, in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard be issued in respect of the relevant conviction or other determination concerned had the application not included, or had it not been supported by, such false or misleading information or documentation. 40
- (10) Where an independent assessor has completed his or her assessment under *subsection (9)*, he or she shall furnish the Minister with a recommendation in writing

(in this Part referred to as an “independent assessor’s recommendation”) recommending—

- (a) where the independent assessor is not satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should not be revoked, giving reasons for the recommendation, or 5
 - (b) where the independent assessor is satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should be revoked, giving reasons for the recommendation.
- (11) The Minister may request in writing a person appointed under *subsection (4)* to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request. 10
- (12) For the purposes of this section and *section 71*, where the relevant person is alive but is not the applicant, “applicant” shall be construed as a reference to both the applicant and the relevant person. 15

Notice of revocation

- 71.** (1) Where the Minister receives an independent assessor’s recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the certificate of disregard should be revoked, issue to the applicant a notice revoking the certificate (in this Part referred to as a “notice of revocation”) and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned, or 20
 - (b) if not satisfied that the certificate of disregard should be revoked, notify, in writing, the applicant of his or her decision not to revoke the certificate of disregard concerned. 25
- (2) Where, in relation to a notification made under *section 70(1)*, the Minister has not received a request in accordance with *section 70(3)*, or where he or she has received such a request but reasonably considers it to be frivolous, vexatious or otherwise manifestly unfounded, the Minister shall issue to the applicant a notice of revocation and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned. 30
- (3) Where the Minister issues a notice of revocation—
- (a) he or she shall, as soon as practicable, notify, or cause to be notified, each public body that holds or may hold (or which may have transferred to the National Archives) a record relating to the previously disregarded conviction or other determination or any circumstances ancillary thereto, and 35
 - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record in order to reflect the revocation of the disregard in such manner as ensures that, where any such record (including any transferred record) is processed for any purpose, the fact of such revocation is clearly and immediately visible. 40

- (4) A notice of revocation shall bear the official seal of the Minister and shall have effect from the date of issue.

Public awareness of Part

72. The Minister shall make such reasonable efforts, including by the holding of a public information campaign, as he or she considers appropriate to promote awareness among the public, and in particular relevant persons, including among persons residing outside the State, of this Part, including the process for the making and consideration of applications and the effect of *section 67*. 5

Personal data under Part

73. (1) Personal data processed for the purposes of the performance of their respective functions under this Part by the Minister, a public body, or an independent person, independent reviewer or independent assessor appointed by the Minister under this Part shall be so processed in accordance with the Data Protection Regulation and the Data Protection Act 2018. 10
- (2) The Minister is designated as data controller in relation to personal data processed by an independent person, independent reviewer or independent assessor for the purposes of the performance by the independent person, independent reviewer or independent assessor of his or her functions under this Part. 15
- (3) Where the Minister, independent person, independent reviewer or independent assessor receives or obtains a copy of a record or any other written information (other than a media report) under *section 62, 64, 65, 68 or 70*, he or she shall redact from such copy or from such other written information— 20
- (a) any information relating to any other offence committed, or alleged to have been committed, by the relevant person unless—
- (i) such information may, in the opinion of the Minister or the independent person, independent reviewer or independent assessor (as the case may be), assist in considering whether the applicable conviction or other determination should be the subject of a certificate of disregard, or 25
- (ii) the relevant person is deceased, 30
- and
- (b) in such manner as to avoid hindering a consideration of whether the applicable conviction or other determination should be the subject of a certificate of disregard, any information which may identify, or could be used to identify, a living person other than the relevant person in connection with the applicable activity or any other offence or alleged offence. 35
- (4) In this section—
- “data controller” has the meaning it has in the Data Protection Regulation;
- “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁸ on the protection of natural persons

8 OJ No. L 119, 4.5.2016, p. 1

with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“personal data” has the same meaning as it has in the Data Protection Regulation.

Limitation of Part

- 74.** Nothing in this Part shall operate to— 5
- (a) confer any right on any person,
 - (b) create any cause of action, or
 - (c) impose any liability on the State or on any person.

PART 18

USE OF ELECTRONIC TECHNOLOGY IN CERTAIN COURT PROCEEDINGS 10

Definitions (*Part 18*)

- 75.** In this Part—
- “criminal proceedings” means proceedings against a person for an offence and includes any appeal proceedings related to the offence;
- “relevant proceedings” means proceedings under— 15
- (a) the Extradition Act 1965,
 - (b) the Transfer of Sentenced Persons Act 1995,
 - (c) Part II of the International War Crimes Tribunals Act 1998,
 - (d) the European Arrest Warrant Act 2003,
 - (e) the Transfer of Execution of Sentences Act 2005, 20
 - (f) Part 3 of the International Criminal Court Act 2006, or
 - (g) Part 3 of the Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023,
- and includes any appeal proceedings related to such proceedings.

Use of electronic means in criminal proceedings and relevant proceedings 25

- 76.** (1) Notwithstanding any other enactment or rule of law, and without prejudice to any such provision in any enactment or rules of court, rules of court may, in relation to criminal proceedings or relevant proceedings, make provision for—
- (a) the lodgement or filing of a document with, and the making of an application to, a court by transmitting the document or application by electronic means to the court office concerned, 30
 - (b) the issue by or on behalf of a court or court office, by transmitting the document concerned by electronic means, of any of the following: