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Offences Against the State Act, 1939



Number 13 of 1939.

OFFENCES AGAINST THE STATE ACT, 1939.

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Acts Referred to

<u>Treasonable Offences Act, 1925</u>	No. 18 of 1925
<u>Public Safety (Emergency Powers) Act, 1926</u>	No. 42 of 1926
<u>Courts of Justice Act, 1924</u>	No. 10 of 1924
<u>Courts of Justice Act, 1928</u>	No. 15 of 1928



Number 13 of 1939.

OFFENCES AGAINST THE STATE ACT, 1939.

AN ACT TO MAKE PROVISION IN RELATION TO ACTIONS AND CONDUCT CALCULATED TO UNDERMINE PUBLIC ORDER AND THE AUTHORITY OF THE STATE, AND FOR THAT PURPOSE TO PROVIDE FOR THE PUNISHMENT OF PERSONS GUILTY OF OFFENCES AGAINST THE STATE, TO REGULATE AND CONTROL IN THE PUBLIC INTEREST THE FORMATION OF ASSOCIATIONS, TO ESTABLISH SPECIAL CRIMINAL COURTS IN ACCORDANCE WITH ARTICLE 38 OF THE CONSTITUTION AND PROVIDE FOR THE CONSTITUTION, POWERS, JURISDICTION, AND PROCEDURE OF SUCH COURTS, TO REPEAL CERTAIN ENACTMENTS AND TO MAKE PROVISION GENERALLY IN RELATION TO MATTERS CONNECTED WITH THE MATTERS AFORESAID. [14th June, 1939].

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

Preliminary and General.

Short title. **1.—**This Act may be cited as the Offences against the State Act, 1939.

Definitions. **2.—**In this Act—

the word “organisation” includes associations, societies, and other organisations or combinations of persons of whatsoever nature or kind, whether known or not known by a distinctive name;

the word “document” includes a book and also a newspaper, magazine, or other periodical publication, and also a pamphlet leaflet, circular, or advertisement; the expression “incriminating document” means a document of whatsoever date, or bearing no date, issued by or emanating from an unlawful organisation or appearing to be so issued or so to emanate or purporting or appearing to aid or abet any such organisation or calculated to promote the formation of an unlawful organisation;

the expression “treasonable document” includes a document which relates directly or indirectly to the commission of treason; the expression “seditious document” includes—

- (a) a document consisting of or containing matter calculated or tending to undermine the public order or the authority of the State, and

(b) a document which alleges, implies, or suggests or is calculated to suggest that the government functioning under the Constitution is not the lawful government of the State or that there is in existence in the State any body or organisation not functioning under the Constitution which is entitled to be recognised as being the government of the country, and

(c) a document which alleges, implies, or suggests or is calculated to suggest that the military forces maintained under the Constitution are not the lawful military forces of the State, or that there is in existence in the State a body or organisation not established and maintained by virtue of the Constitution which is entitled to be recognised as a military force, and

(d) a document in which words, abbreviations, or symbols referable to a military body are used in referring to an unlawful organisation;

the word "offence" includes treason, felonies, misdemeanours, and statutory and other offences;

references to printing include every mode of representing or reproducing words in a visible form, and the word "print" and all cognate words shall be construed accordingly.

Exercise of powers by superintendents of the Garda Síochána. **3.**—Any power conferred by this Act on an officer of the Garda Síochána not below the rank of chief superintendent may be exercised by any superintendent of the Garda Síochána who is authorised (in respect of any particular power or any particular case) in that behalf in writing by the Commissioner of the Garda Síochána.

Expenses. **4.**—The expenses incurred by any Minister of State 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.

Repeals. **5.**—The Treasonable Offences Act, 1925 (No. 18 of 1925), and the Public Safety (Emergency Powers) Act, 1926 (No. 42 of 1926), are hereby repealed.

PART II.

Offences Against the State.

Usurpation of functions of government. **6.**—(1) Every person who usurps or unlawfully exercises any function of government, whether by setting up, maintaining, or taking part in any way in a body of persons purporting to be a government or a legislature but not authorised in that behalf by or under the Constitution, or by setting up, maintaining, or taking part in any way in a purported court or other tribunal not lawfully established, or by forming, maintaining, or being a member of an armed force or a purported police force not so authorised, or by any other action or conduct whatsoever, shall be guilty of felony and shall be liable on conviction thereof to suffer penal servitude for a term not exceeding ten years or to imprisonment for a term not exceeding two years.

(2) Every person who shall attempt to do any thing the doing of which is a felony under the foregoing sub-section of this section or who aids or abets or conspires with another person to do or attempt to do any such thing or advocates or encourages the doing of any such thing shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

Obstruction of
government.

7.—(1) Every person who prevents or obstructs, or attempts or is concerned in an attempt to prevent or obstruct, by force of arms or other violent means or by any form of intimidation the carrying on of the government of the State or any branch (whether legislative, judicial, or executive) of the government of the State or the exercise or performance by any member of the legislature, the judiciary, or the executive or by any officer or employee (whether civil (including police) or military) of the State of any of his functions, powers, or duties shall be guilty of felony and shall be liable on conviction thereof to suffer penal servitude for a term not exceeding seven years or to imprisonment for a term not exceeding two years.

(2) Every person who aids or abets or conspires with another person to do any thing the doing of which is a felony under the foregoing sub-section of this section or advocates or encourages the doing of any such thing shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

Obstruction of
the President.

8.—(1) Every person who prevents or obstructs, or attempts or is concerned in an attempt to prevent or obstruct, by force of arms or other violent means or by any form of intimidation the exercise or performance by the President of any of his functions, powers, or duties shall be guilty of felony and shall be liable on conviction thereof to suffer penal servitude for a term not exceeding seven years or to imprisonment for a term not exceeding two years.

(2) Every person who aids or abets or conspires with another person to do any thing the doing of which is a felony under the foregoing sub-section of this section or advocates or encourages the doing of any such thing shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

Interference
with military or
other
employees of
the State.

9.—(1) Every person who shall with intent to undermine public order or the authority of the State commit any act of violence against or of interference with a member of a lawfully established military or police force (whether such member is or is not on duty) or shall take away, injure, or otherwise interfere with the arms or equipment, or any part of the arms or equipment, of any such member shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

(2) Every person who shall incite or encourage any person employed in any capacity by the State to refuse, neglect, or omit (in a manner or to an extent calculated to dislocate the public service or a branch thereof) to perform his duty or shall incite or encourage any person so employed to be negligent or insubordinate (in such manner or to such extent as aforesaid) in the performance of his duty shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

(3) Every person who attempts to do any thing the doing of which is a misdemeanour under either of the foregoing sub-sections of this section or who aids or abets or conspires with another person to do or attempt to do any such thing or advocates or encourages the doing of any such thing shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding twelve months.

Prohibition of
printing, etc.,
certain
documents.

10.—(1) It shall not be lawful to set up in type, print, publish, send through the post, distribute, sell, or offer for sale any document—

- (a) which is or contains or includes an incriminating document, or
- (b) which is or contains or includes a treasonable document, or
- (c) which is or contains or includes a seditious document.

(2) In particular and without prejudice to the generality of the foregoing sub-section of this section, it shall not be lawful for any person to send or contribute to any newspaper or other periodical publication or for the proprietor of any newspaper or other periodical publication to publish in such newspaper or publication any letter, article, or communication which is sent or contributed or purports to be sent or contributed by or on behalf of an unlawful organisation or which is of Such nature or character that the printing of it would be a contravention of the foregoing sub-section of this section.

(3) Every person who shall contravene either of the foregoing sub-sections of this section shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds, or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and also (in any case), if the Court so directs, to forfeit every copy in his possession of the document, newspaper, or publication in relation to which the offence was committed and also (where the act constituting the offence was the setting up in type or the printing of a document) to forfeit, if the Court so directs, so much of the printing machinery in his possession as is specified in that behalf by the Court,

(4) Every person who unlawfully has in his possession a document which was printed or published in contravention of this section or a newspaper or other periodical publication containing a letter, article, or other communication published therein in contravention of this section shall, when so requested by a member of the *Gárda Síochána*, deliver up to such member every copy in his possession of such document or of such newspaper or publication (as the case may be), and if he fails or refuses so to do he shall be guilty of an offence under this sub-section and shall be liable on-summary conviction thereof to imprisonment for a term not exceeding three months and also, if the Court so directs, to forfeit every copy in his possession of the document, newspaper or publication in relation to which the offence was committed.

(5) Nothing in this section shall render unlawful the setting up in type, printing, publishing, sending through the post, distributing, selling, offering for sale, or having possession of a document or a copy of a document which is published at the request or by permission of the Government or is published in the course or as part of a fair report of the proceedings in either House of the *Oireachtas* or in a court of justice or before any other court or tribunal lawfully exercising jurisdiction.

Foreign newspapers, etc., containing seditious or unlawful matter. **11.—**(1) Whenever the Minister for Justice is of opinion, in respect of a newspaper or other periodical publication ordinarily printed outside the State, that a particular issue of such publication either is seditious or contains any matter the publication of which is a contravention of this Act, the said Minister may by order, if he considers that it is in the public interest so to do, do either or both of the following things, that is to say:—

(a) authorise members of the *Gárda Síochána* to seize and destroy all copies of the said issue of such publication wherever they may be found;

(b) prohibit the importation of any copy of any issue of such publication published within a specified period (not exceeding three months) after the publication of the said issue of such publication.

(2) The Minister for Justice may by order, whenever he thinks proper so to do, revoke or amend any order made by him under the foregoing sub-section of this section or any order (made by him under this sub-section) amending any such order.

(3) It shall not be lawful for any person to import any copy of an issue of a periodical publication the importation of which is prohibited by an order under this section, and all such copies shall be deemed to be included amongst the goods enumerated and described in the Table of Prohibitions and Restrictions Inwards annexed to section 42 of the Customs Consolidation Act, 1876, and the provisions of that Act (as amended or extended by subsequent Acts) relating to the importation of prohibited or restricted goods shall apply accordingly.

Possession of
treasonable,
seditious, or
incriminating
documents.

12.—(1) It shall not be lawful for any person to have any treasonable document, seditious document, or incriminating document in his possession or on any lands or premises owned or occupied by him or under his control.

(2) Every person who has a treasonable document, seditious document, or incriminating document in his possession or on any lands or premises owned or occupied by him or under his control shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(3) Where a person is charged with an offence under this section, it shall be a good defence to such charge for such person to prove—

- (a) that he is an officer of the State and had possession or custody of the document in respect of which the offence is alleged to have been committed in the course of his duties as such officer, or
- (b) that he did not know that the said document was in his possession or on any lands or premises owned or occupied by him or under his control, or
- (c) that he did not know the nature or contents of the said document.

(4) Every person who has in his possession a treasonable document, seditious document, or incriminating document shall, when so requested by a member of the *Gárda Síochána*, deliver up to such member the said document and every copy thereof in his possession, and if he fails or refuses so to do he shall be guilty of an offence under this sub-section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding three months.

(5) Where the proprietor or the editor or other chief officer of a newspaper or other periodical publication receives a document which appears to him to be a treasonable document, a seditious document, or an incriminating document and such document is not published in such newspaper or periodical publication, the following provisions shall have effect, that is to say:—

- (a) if such proprietor, editor, or chief officer is requested by a member of the *Gárda Síochána* to deliver up such document to such member, such proprietor, editor, or chief officer may, in lieu of so delivering up such document, destroy such document and every (if any) copy thereof in his possession in the presence and to the satisfaction of such member;

- (b) if such proprietor, editor, or chief officer destroys under the next preceding paragraph of this sub-section such document and every (if any) copy thereof in his possession or of his own motion destroys such document within twenty-four hours after receiving it and without having made any copy of it or permitted any such copy to be made, such destruction shall be a good defence to any charge against such proprietor, editor, or chief officer of an offence under any sub-section of this section in respect of such document and no civil or criminal action or other proceeding shall lie against such proprietor, editor, or chief officer on account of such destruction.

Provisions in respect of documents printed for reward.

13.—(1) Every person who shall print for reward any document shall do every of the following things, that is to say:—

- (a) at the time of or within twenty-four hours after printing such document, print or write on at least one copy of such document the name and address of the person for whom or on whose instructions such document was printed;
- (b) retain, for six months from the date on which such document was printed, a copy of such document on which the said name and address is printed or written as aforesaid;
- (c) on the request of a member of the *Gárda Síochána* at any time during the said period of six months, produce for the inspection of such member the said copy of such document so retained as aforesaid.

(2) Every person who shall print for reward any document and shall fail to comply in any respect with the foregoing sub-section of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first such offence, to a fine not exceeding twenty-five pounds and, in the case of a second or any subsequent such offence, to a fine not exceeding fifty pounds.

(3) This section does not apply to any newspaper, magazine or other periodical publication which is printed by the proprietor thereof on his own premises.

Obligation to print printer's name and address on documents.

14.—(1) Every person who shall print for reward any document (other than a document to which this section does not apply) which he knows or has reason to believe is intended to be sold or distributed (whether to the public generally or to a restricted class or number of persons) or to be publicly or privately displayed shall, if such document consists only of one page or sheet printed on one side only, print his name and the address of his place of business on the front of such document and shall, in every other case, print the said name and address on the first or the last page of such document.

(2) Every person who shall contravene by act or omission the foregoing sub-section of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first such offence, to a fine not exceeding twenty-five pounds and, in the case of a second or any subsequent such offence, to a fine not exceeding fifty pounds.

(3) This section does not apply to any of the following documents, that is to say:—

- (a) currency notes, bank notes, bills of exchange, promissory notes, cheques, receipts and other financial or commercial documents,
- (b) writs, orders, summonses, warrants, affidavits, and other documents for the purposes of or for use in any lawful court or tribunal,
- (c) any document printed by order of the Government, either House of the Oireachtas, a Minister of State, or any officer of the State in the execution of his duties as such officer,
- (d) any document which the Minister for Justice shall by order declare to be a document to which this section does not apply.

Unauthorised
military
exercises
prohibited.

15.—(1) Save as authorised by a Minister of State under this section, and subject to the exceptions hereinafter mentioned, it shall not be lawful for any assembly of persons to practise or to train or drill themselves in or be trained or drilled in the use of arms or the performance of military exercises, evolutions, or manoeuvres nor for any persons to meet together or assemble for the purpose of so practising or training or drilling or being trained or drilled.

(2) A Minister of State may at his discretion by order, subject to such limitations, qualifications and conditions as he shall think fit to impose and shall express in the order, authorise the members of any organisation to meet together and do such one or more of the following things as shall be specified in such order, that is to say, to practise or train or drill themselves in or be trained or drilled in the use of arms or the performance of military exercises, evolutions, or manoeuvres.

(3) If any person is present at or takes part in or gives instruction to or trains or drills an assembly of persons who without or otherwise than in accordance with an authorisation granted by a Minister of State under this section practise, or train or drill themselves in, or are trained or drilled in the use of arms or the performance of any military exercise, - evolution, or manoeuvre or who without or otherwise than in accordance with such authorisation have assembled or met together for the purpose of so practising, or training or drilling or being trained or drilled, such person shall be guilty of a misdemeanour and shall be liable on conviction thereof to imprisonment for a term not exceeding two years.

(4) This section shall not apply to any assembly of members of any military or police force lawfully maintained by the Government.

(5) In any prosecution under this section the burden of proof that any act was authorised under this section shall lie on the person prosecuted.

Secret societies
in army or
police.

16.—(1) Every person who shall—

- (a) form, organise, promote, or maintain any secret society amongst or consisting of or including members of any military or police force lawfully maintained by the Government, or
- (b) attempt to form, organise, promote, or maintain any such secret society, or
- (c) take part, assist, or be concerned in any way in the formation, organisation, promotion, management, or maintenance of any such society, or
- (d) induce, solicit, or assist any member of a military or police force lawfully maintained by the Government to join any secret society whatsoever,

shall be guilty of a misdemeanour and shall be liable on conviction thereof to suffer penal servitude for any term not exceeding five years or imprisonment for any term not exceeding two years.

(2) In this section the expression “secret society” means an association, society, or other body the members of which are required by the regulations thereof to take or enter into, or do in fact take or enter into, an oath, affirmation, declaration or agreement not to disclose the proceedings or some part of the proceedings of the association, society, or body.

Administering
unlawful oaths.

17.—(1) Every person who shall administer or cause to be administered or take part in, be present at, or consent to the administering or taking in any form or manner of any oath, declaration, or engagement purporting or intended to bind the person taking the same to do all or any of the following things, that is to say:—

- (a) to commit or to plan, contrive, promote, assist, or conceal the commission of any crime or any breach of the peace, or
- (b) to join or become a member of or associated with any organisation having for its object or one of its objects the commission of any crime, or breach of the peace, or
- (c) to abstain from disclosing or giving information of the existence or formation or proposed or intended formation of any such organisation, association, or other body as aforesaid or from informing or giving evidence against any member of or person concerned in the formation of any such organisation, association, or other body, or
- (d) to abstain from disclosing or giving information of the commission or intended or proposed commission of any crime, breach of the peace, or from informing or giving evidence against the person who committed such an act,

shall be guilty of a misdemeanour and shall be liable on conviction thereof to suffer imprisonment for any term not exceeding two years,

(2) Every person who shall take any such oath, declaration, or engagement as is mentioned in the foregoing sub-section shall be guilty of a misdemeanour and be liable on conviction thereof to suffer imprisonment for any term not exceeding two years unless he shall show—

(a) that he was compelled by force or duress to take such oath, declaration, or engagement (as the case may be), and

(b) that within four days after the taking of such oath, declaration, or engagement, if not prevented by actual force or incapacitated by illness or other sufficient cause, or where so prevented or incapacitated then within four days after the cesser of the hindrance caused by such force, illness or other cause, he declared to an officer of the *Gárda Síochána* the fact of his having taken such oath, declaration, or engagement, and all the circumstances connected therewith and the names and descriptions of all persons concerned in the administering thereof so far as such circumstances, names, and descriptions were known to him.

PART III.

Unlawful Organisations.

Unlawful organisations. **18.**—In order to regulate and control in the public interest the exercise of the constitutional right of citizens to form associations, it is hereby declared that any organisation which—

(a) engages in, promotes, encourages, or advocates the commission of treason or any activity of a treasonable nature, or

(b) advocates, encourages, or attempts the procuring by force, violence, or other unconstitutional means of an alteration of the Constitution, or

(c) raises or maintains or attempts to raise or maintain a military or armed force in contravention of the Constitution or without constitutional authority, or

(d) engages in, promotes, encourages, or advocates the commission of any criminal offence or the obstruction of or interference with the administration of justice or the enforcement of the law, or

(e) engages in, promotes, encourages, or advocates the attainment of any particular object, lawful or unlawful, by violent, criminal, or other unlawful means, or

(f) promotes, encourages, or advocates the non-payment of moneys payable to the Central Fund or any other public fund or the non-payment of local taxation,

shall be an unlawful organisation within the meaning and for the purposes of this Act, and this Act shall apply and have effect in relation to such organisation accordingly.

Suppression
orders.

19.—(1) If and whenever the Government are of opinion that any particular organisation is an unlawful organisation, it shall be lawful for the Government by order (in this Act referred to as a suppression order) to declare that such organisation is an unlawful organisation and ought, in the public interest, to be suppressed.

(2) The Government may by order, whenever they so think proper, amend or revoke a suppression order.

(3) Every suppression order shall be published in the *Iris Oifigiúil* as soon as conveniently may be after the making thereof.

(4) A suppression order shall be conclusive evidence for all purposes other than an application for a declaration of legality that the organisation to which it relates is an unlawful organisation within the meaning of this Act.

Declarations of
legality.

20.—(1) Any person (in this section referred to as the applicant) who claims to be a member of an organisation in respect of which a suppression order has been made may, at any time within thirty days after the publication of such order in the *Iris Oifigiúil*, apply to the High Court in a summary manner on notice to the Attorney-General for a declaration (in this Act referred to as a declaration of legality) that such organisation is not an unlawful organisation.

(2) Where, on an application under the foregoing sub-section of this section, the High Court, after hearing such evidence as may be adduced by the applicant or by the Attorney-General, is satisfied that the organisation to which such application relates is not an unlawful organisation, it shall be lawful for the High Court to make a declaration of legality in respect of such organisation.

(3) The High Court shall not make a declaration of legality unless the applicant for such declaration either—

(a) gives evidence in support of the application and submits himself to cross-examination by counsel for the Attorney-General, or

(b) satisfies the High Court that he is unable by reason of illness or other sufficient cause to give such evidence and adduces in support of the application the evidence of at least one person who submits himself to cross-examination by counsel for the Attorney-General.

(4) Whenever, on an application under this section, the High Court, or the Supreme Court on appeal from the High Court, makes a declaration of legality in respect of an organisation, the suppression order relating to such organisation shall forthwith become null and void, but without prejudice to the validity of anything previously done thereunder.

(5) Where the High Court makes a declaration of legality, it shall be lawful for that court, on the application of the Attorney-General, to suspend the operation of the next preceding sub-section of this section in respect of such declaration until the final determination of an appeal by the Attorney-General to the Supreme Court against such declaration, and if the High Court so suspends the said sub-section, the said sub-section shall only come into operation in respect of such declaration if and when the Supreme Court affirms the order of the High Court making such declaration.

(6) Whenever an application for a declaration of legality is made under this section and is refused by the High Court, or by the Supreme Court on appeal from the High Court, it shall not be lawful, in any prosecution of the applicant for the offence of being a member of the organisation to which such application relates, to give in evidence against the applicant any of the following matters, that is to say:—

- (a) the fact that he made the said application, or
- (b) any admission made by him or on his behalf for the purposes of or during the hearing of the said application, or
- (c) any statement made in the oral evidence given by him or on his behalf (whether on examination in chief, cross-examination, or re-examination) at the hearing of the said application, or
- (d) any affidavit made by him or on his behalf for the purposes of the said application.

Prohibition of membership of an unlawful organisation.

21.—(1) It shall not be lawful for any person to be a member of an unlawful organisation.

(2) Every person who is a member of an unlawful organisation in contravention of this section shall be guilty of an offence under this section and shall—

- (a) on summary conviction thereof, be liable to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, or
- (b) on conviction thereof on indictment, be liable to imprisonment for a term not exceeding two years.

(3) It shall be a good defence for a person charged with the offence under this section of being a member of an unlawful organisation, to show—

- (a) that he did not know that such organisation was an unlawful organisation, or
- (b) that, as soon as reasonably possible after he became aware of the real nature of such organisation or after the making of a suppression order in relation to such organisation, he ceased to be a member thereof and dissociated himself therefrom.

(4) Where an application has been made to the High Court for a declaration of legality in respect of an organisation no person who is, before the final determination of such application, charged with an offence under this section in relation to that organisation shall be brought to trial on such charge before such final determination, but a postponement of the said trial in pursuance of this sub-section shall not prevent the detention of such person in custody during the period of such postponement.

Provisions
consequent
upon the
making of a
suppression
order.

22.—Immediately upon the making of a suppression order, the following provisions shall have effect in respect of the organisation to which such order relates, that is to say:—

- (a) all the property (whether real, chattel real, or personal and whether in possession or in action) of such organisation shall become and be forfeited to and vested in the Minister for Justice;
- (b) the said Minister shall take possession of all lands and premises which become forfeited to him under this section and the said Minister may cause all such things to be done by members of the *Gárda Síochána* as appear to him to be necessary or expedient for the purpose of such taking possession;
- (c) subject to the subsequent provisions of this section, it shall be lawful for the said Minister to sell or let, on such terms as he shall, with the sanction of the Minister for Finance, think proper, any lands or premises which become forfeited to him under this section or to use any such lands or premises for such government purposes as he shall, with the sanction aforesaid, think proper;
- (d) the Minister for Justice shall take possession of, recover, and get in all personal property which becomes forfeited to him under this section and may take such legal proceedings and other steps as shall appear to him to be necessary or expedient for that purpose;
- (e) subject to the subsequent provisions of this section, it shall be lawful for the said Minister to sell or otherwise realise, in such manner and upon such terms as he shall, with the sanction of the Minister for Finance, think proper, all personal property which becomes forfeited to him under this section;
- (f) the Minister for Justice shall pay into or dispose of for the benefit of the Exchequer, in accordance with the directions of the Minister for Finance, all money which becomes forfeited to him under this section and the net proceeds of every sale, letting, realisation, or other disposal of any other property which becomes so forfeited;

(g) no property which becomes forfeited to the Minister for Justice under this section shall be sold, let, realised, or otherwise disposed of by him until the happening of whichever of the following events is applicable, that is to say:—

(i) if no application is made under this Act for a declaration of legality in respect of the said organisation within the time limited by this Act for the making of such application, the expiration of the time so limited,

(ii) if any such application is so made, the final determination of such application.

Provisions
consequent
upon the
making of a
declaration of
legality.

23.—(1) Whenever a declaration of legality is made, the following provisions shall have effect, that is to say:—

(a) every person who is detained in custody charged with the offence of being a member of the organisation to which such declaration of legality relates shall forthwith be released from such custody;

(b) all the property of the said organisation which became forfeited to the Minister for Justice by virtue of this Act on the making of the suppression order in respect of the said organisation shall become and be the property of the said organisation and shall be delivered to the said organisation by the said Minister on demand.

(2) Where the High Court makes a declaration of legality, it shall be lawful for that court, on the application of the Attorney-General, to suspend the operation of the foregoing sub-section of this section in respect of such declaration until the final determination of an appeal by the Attorney-General to the Supreme Court against such declaration, and if the High Court so suspends the said sub-section, the said sub-section shall only come into operation in respect of such declaration if and when the Supreme Court affirms the order of the High Court making such declaration.

Proof of
membership of
an unlawful
organisation by
possession of
incriminating
document.

24.—On the trial of a person charged with the offence of being a member of an unlawful organisation, proof to the satisfaction of the court that an incriminating document relating to the said organisation was found on such person or in his possession or on lands or in premises owned or occupied by him or under his control shall, without more, be evidence until the contrary is proved that such person was a member of the said organisation at the time alleged in the said charge.

Closing of
buildings.

25.—(1) Whenever an officer of the Garda Síochána not below the rank of chief superintendent is satisfied that a building is being used or has been used in any way for the purposes, direct or indirect, of an unlawful organisation, such officer may make an order (in this section referred to as a closing order) that such building be closed for the period of three months from the date of such order.

(2) Whenever a closing order has been made an officer of the *Gárda Síochána* not below the rank of chief superintendent may—

- (a) extend the operation of such closing order for a further period not exceeding three months from the expiration of the period mentioned in such closing order;
- (b) terminate the operation of such closing order.

(3) Whenever a closing order has been made or has been extended, any person having an estate or interest in the building to which such closing order relates may apply to the High Court, in a summary manner on notice to the Attorney-General, for such order as is hereinafter mentioned, and on such application the High Court, if it is satisfied that, having regard to all the circumstances of the case, the making or the extension (as the case may be) of such closing order was not reasonable, may make an order quashing such closing order or the said extension thereof, as the case may be.

(4) Whenever and so long as a closing order is in operation, the following provisions shall have effect, that is to say:—

- (a) it shall not be lawful for any person to use or occupy the building to which such closing order relates or any part of such building;
- (b) any member of the *Gárda Síochána* not below the rank of inspector may take all such steps as he shall consider necessary or expedient to prevent such building or any part thereof being used or occupied in contravention of this sub-section;
- (c) every person who uses or occupies such building or any part of such building in contravention of this sub-section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding three months.

(5) In this section the word “building” includes a part of a building and also all outhouses, yards, and gardens within the curtilage of the building.

PART IV.

Miscellaneous.

Evidence of publication of treasonable, seditious or incriminating document.

26.—Where in any criminal proceedings the question whether a particular treasonable document, seditious document, or incriminating document was or was not published by the accused (whether by himself or in concert with other persons or by arrangement between himself and other persons) is in issue and an officer of the *Gárda Síochána* not below the rank of chief superintendent states on oath that he believes that such document was published (as the case may be) by the accused or by the accused in concert with other persons or by arrangement between the accused and other persons, such statement shall be evidence (until the accused denies on oath that he published such document either himself or in concert or by arrangement as aforesaid) that the accused published such document as alleged in the said statement on oath of such officer.

Prohibition of
certain public
meetings.

27.—(1) It shall not be lawful to hold a public meeting which is held or purports to be held by or on behalf of or by arrangement or in concert with an unlawful organisation or which is held or purports to be held for the purpose of supporting, aiding, abetting, or encouraging an unlawful organisation or of advocating the support of an unlawful organisation.

(2) Whenever an officer of the *Gárda Síochána* not below the rank of chief superintendent is of opinion that the holding of a particular public meeting about to be or proposed to be held would be a contravention of the next preceding sub-section of this section, it shall be lawful for such officer by notice given to a person concerned in the holding or organisation of such meeting or published in a manner reasonably calculated to come to the knowledge of the persons so concerned, to prohibit the holding of such meeting, and thereupon the holding of such meeting shall become and be unlawful.

(3) Whenever an officer of the *Gárda Síochána* gives any such notice as is mentioned in the next preceding sub-section of this section, any person claiming to be aggrieved by such notice may apply to the High Court in a summary manner on notice to the Attorney-General for such order as is hereinafter mentioned and, upon the hearing of such application, the High Court if it so thinks proper, may make an order annulling such notice.

(4) Every person who organises or holds or attempts to organise or hold a public meeting the holding of which is a contravention of this section or who takes part or is concerned in the organising or the holding of any such meeting shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(5) In this section the expression “public meeting” includes a procession and also includes (in addition to a meeting held in a public place or on unenclosed land) a meeting held in a building or on enclosed land to which the public are admitted, whether with or without payment.

Prohibition of
meetings in the
vicinity of the
Oireachtas.

28.—(1) It shall not be lawful for any public meeting to be held in, or any procession to pass along or through, any public street or unenclosed place which or any part of which is situate within one-half of a mile from any building in which both Houses or either House of the *Oireachtas* are or is sitting or about to sit if either—

(a) an officer of the *Gárda Síochána* not below the rank of chief superintendent has, by notice given to a person concerned in the holding or organisation of such meeting or procession or published in a manner reasonably calculated to come to the knowledge of the persons so concerned, prohibited the holding of such meeting in or the passing of such procession along or through any such public street or unenclosed place as aforesaid, or

(b) a member of the *Gárda Síochána* calls on the persons taking part in such meeting or procession to disperse.

(2) Every person who—

- (a) shall organise, hold, or take part in or attempt to organise, hold, or take part in a public meeting or a procession in any such public street or unenclosed place as is mentioned in the foregoing sub-section of this section after such meeting or procession has been prohibited by a notice under paragraph (a) of the said sub-section,
- (b) shall hold or take part in or attempt to hold or take part in a public meeting or a procession in any such public street or unenclosed place as aforesaid after a member of the *Gárda Síochána* has, under paragraph (b) of the said sub-section, called upon the persons taking part in such meeting or procession to disperse, or
- (c) shall remain in or enter into any such public street or unenclosed space after being called upon to disperse as aforesaid,

shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Search warrants 29.—(1) Where an officer of the *Gárda Síochána* not below the rank of chief superintendent is satisfied that there is reasonable ground for believing that documentary evidence of or relating to the commission or intended commission of an offence under any section or sub-section of this Act or any document relating directly or indirectly, to the commission or intended commission of treason is, to be found in any particular building or other place, the said officer may issue to a member of the *Gárda Síochána* not below the rank of inspector a search warrant in accordance with this section.

(2) A search warrant issued under this section shall be expressed and shall operate to authorise a member of the *Gárda Síochána* (not below the rank of inspector) named in such warrant together with such other persons (if any) as are named therein and any member of the *Gárda Síochána* to enter, within one week from the date of such warrant, and if necessary by the use of force, any building or other place named in such warrant and to search the said building or other place, and any person found therein, and to seize any document or thing found in such building or other place or on such person which such member reasonably believes to be evidence of or to relate directly or indirectly to the commission or intended commission of an offence under any section or sub-section of this Act or to the commission or intended commission of treason.

(3) A member of the *Gárda Síochána* acting under the authority of a search warrant issued under this section may—

- (a) demand the name and address of any person found in the building or other place named in such warrant, and
- (b) arrest without warrant any such person who refuses to give his name and address, or gives a false name or a false address.

(4) Any document seized under this section may be removed and retained for so long as the Minister for Justice thinks proper, and any other thing so seized may be removed and retained for a period of one month from the date of its seizure, or, if proceedings are commenced within such period for an offence under any section or sub-section of this Act or for treason, until the conclusion of such proceedings, and thereafter the provisions of the Police (Property) Act, 1897, shall, subject to the provisions of this Act in relation to the forfeiture of certain property, apply to the thing so seized in the same manner as that Act applies to property which has come into the possession of the *Gárda Síochána* in the circumstances mentioned in that Act.

(5) Every person who obstructs or attempts to obstruct any member of the *Gárda Síochána* or any other person acting under the authority of a search warrant issued under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Arrest and
detention of
suspected
persons.

30.—(1) A member of the *Gárda Síochána* (if he is not in uniform on production of his identification card if demanded) may without warrant stop, search, interrogate, and arrest any person, or do any one or more of those things in respect of any person, whom he suspects of having committed or being about to commit or being or having been concerned in the commission of an offence under any section or sub-section of this Act or an offence which is for the time being a scheduled offence for the purposes of Part V of this Act or whom he suspects of carrying a document relating to the commission or intended commission of any such offence as aforesaid or whom he suspects of being in possession of information relating to the commission or intended commission of any such offence as aforesaid.

(2) Any member of the *Gárda Síochána* (if he is not in uniform on production of his identification card if demanded) may, for the purpose of the exercise of any of the powers conferred by the next preceding sub-section of this section, stop and search (if necessary by force) any vehicle or any ship, boat, or other vessel which he suspects to contain a person whom he is empowered by the said sub-section to arrest without warrant.

(3) Whenever a person is arrested under this section, he may be removed to and detained in custody in a *Gárda Síochána* station, a prison, or some other convenient place for a period of twenty-four hours from the time of his arrest and may, if an officer of the *Gárda Síochána* not below the rank of Chief Superintendent so directs, be so detained for a further period of twenty-four hours.

(4) A person detained under the next preceding sub-section of this section may, at any time during such detention, be charged before the District Court or a Special Criminal Court with an offence or be released by direction of an officer of the *Gárda Síochána*, and shall, if not so charged or released, be released at the expiration of the detention authorised by the said sub-section.

(5) A member of the *Gárda Síochána* may do all or any of the following things in respect of a person detained under this section, that is to say:—

- (a) demand of such person his name and address;
- (b) search such person or cause him to be searched;
- (c) photograph such person or cause him to be photographed;
- (d) take, or cause to be taken, the fingerprints of such person.

(6) Every person who shall obstruct or impede the exercise in respect of him by a member of the *Gárda Síochána* of any of the powers conferred by the next preceding sub-section of this section or shall fail or refuse to give his name and address or shall give, in response to any such demand, a name or an address which is false or misleading shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months.

Offences by
bodies
corporate.

31.—Where an offence under any section or sub-section of this Act is committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary, or other officer of such body corporate, such director, manager, secretary, or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly, whether such body corporate has or has not been proceeded against in respect of the said offence.

Re-capture of
escaped
prisoners.

32.—(1) Whenever any person detained under this Act shall have escaped from such detention, such person may be arrested without warrant by any member of the *Gárda Síochána* and shall thereupon be returned in custody to the place from which he so escaped.

(2) Every person who shall aid or abet a person detained under this Act to escape from such detention or to avoid recapture after having so escaped shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding three months.

Remission, etc.,
in respect of
convictions by a
Special Criminal
Court.

33.—(1) Except in capital cases, the Government may, at their absolute discretion, at any time remit in whole or in part or modify (by way of mitigation only) or defer any punishment imposed by a Special Criminal Court.

(2) Whenever the Government remits in whole or in part or defers a punishment imposed by a Special Criminal Court, the Government may attach to such remittal or deferment such conditions (if any) as they may think proper.

(3) Whenever the Government defers under the next preceding sub-section of this section the whole or any part of a sentence of imprisonment, the person on whom such sentence was imposed shall be bound to serve such deferred sentence, or part of a sentence, of imprisonment when the same comes into operation and may for that purpose be arrested without warrant.

Forfeitures and disqualifications on certain convictions by a Special Criminal Court. **34.—**(1) Whenever a person who is convicted by a Special Criminal Court of an offence which is, at the time of such conviction, a scheduled offence for the purposes of Part V of this Act, holds at the time of such conviction an office or employment remunerated out of the Central Fund or moneys provided by the Oireachtas or moneys raised by local taxation, or in or under or as a paid member of a board or body established by or under statutory authority, such person shall immediately on such conviction forfeit such office, employment, place, or emolument and the same shall forthwith become and be vacant.

(2) Whenever a person who is convicted by a Special Criminal Court of an offence which is, at the time of such conviction, a scheduled offence for the purposes of Part V of this Act, is at the time of such conviction in receipt of a pension or superannuation allowance payable out of the Central Fund or moneys provided by the Oireachtas or moneys raised by local taxation, or the funds of a board or body established by or under statutory authority, such person, shall immediately upon such conviction forfeit such pension or superannuation allowance and such pension or superannuation allowance shall forthwith cease to be payable.

(3) Every person who is convicted by a Special Criminal Court of an offence which is, at the time of such conviction, a scheduled offence for the purposes of Part V of this Act, shall be disqualified—

- (a) for holding, within seven years after the date of such conviction, any office or employment remunerated out of the Central Fund or moneys provided by the Oireachtas or moneys raised by local taxation or in or under or as a paid member of a board or body established by or under statutory authority, and
- (b) for being granted out of the Central Fund or any such moneys or the funds of any such board or body, at any time after the date of such conviction, any pension, superannuation allowance, or gratuity in respect wholly or partly of any service rendered or thing done by him before the date of such conviction, and
- (c) for receiving at any time after such conviction any such pension, superannuation allowance, or gratuity as is mentioned in the next preceding paragraph of this section which was granted but not paid on or before the date of such conviction.

(4) Whenever a conviction which occasions by virtue of this section any forfeiture or disqualification is quashed or annulled or the convicted person is granted a free pardon such forfeiture or disqualification shall be annulled, in the case of a quashing or annulment, as from the date of the conviction and, in the case of a free pardon, as from the date of such pardon.

(5) The Government may, at their absolute discretion, remit, in whole or in part, any forfeiture or disqualification incurred under this section and restore or revive, in whole or in part, the subject of such forfeiture as from the date of such remission.

PART V.

Special Criminal Courts.

Commencement and cesser of this Part of this Act. **35.—**(1) This Part of this Act shall not come into or be in force save as and when and for so long as is provided by the subsequent sub-sections of this section.

(2) If and whenever and so often as the Government is satisfied that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order and that it is therefore necessary that this Part of this Act should come into force, the Government may make and publish a proclamation declaring that the Government is satisfied as aforesaid and ordering that this Part of this Act shall come into force.

(3) Whenever the Government makes and publishes, under the next preceding sub-section of this section, such proclamation as is mentioned in that sub-section, this Part of this Act shall come into force forthwith.

(4) If at any time while this Part of this Act is in force the Government is satisfied that the ordinary courts are adequate to secure the effective administration of justice and the preservation of public peace and order, the Government shall make and publish a proclamation declaring that this Part of this Act shall cease to be in force, and thereupon this Part of this Act shall forthwith cease to be in force.

(5) It shall be lawful for Dáil Éireann, at any time while this Part of this Act is in force, to pass a resolution annulling the proclamation by virtue of which this Part of this Act is then in force, and thereupon such proclamation shall be annulled and this Part of this Act shall cease to be in force, but without prejudice to the validity of anything done under this Part of this Act after the making of such proclamation and before the passing of such resolution.

(6) A proclamation made by the Government under this section shall be published by publishing a copy thereof in the *Iris Oifigiúil* and may also be published in any other manner which the Government shall think proper.

Scheduled offences.

36.—(1) Whenever while this Part of this Act is in force the Government is satisfied that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to offences of any particular class or kind or under any particular enactment, the Government may by order declare that offences of that particular class or kind or under that particular enactment shall be scheduled offences for the purposes of this Part of this Act.

(2) Whenever the Government has made under the foregoing sub-section of this section any such declaration as is authorised by that sub-section, every offence of the particular class or kind or under the particular enactment to which such declaration relates shall, until otherwise provided by an order under the next following sub-section of this section, be a scheduled offence for the purposes of this Part of this Act.

(3) Whenever the Government is satisfied that the effective administration of justice and the preservation of public peace and order in relation to offences of any particular class or kind or under any particular enactment which are for the time being scheduled offences for the purposes of this Part of this Act can be secured through the medium of the ordinary courts, the Government may by order declare that offences of that particular class or kind or under that particular enactment shall, upon the making of such order, cease to be scheduled offences for the purposes of this Part of this Act.

Attempting, etc., to commit a scheduled offence. **37.**—In addition to the offences which are, by virtue of an order made under the next preceding section, for the time being scheduled offences for the purposes of this Part of this Act, each of the following acts, that is to say, attempting or conspiring or inciting to commit, or aiding or abetting the commission of, any such scheduled offence shall itself be a scheduled offence for the said purposes.

Establishment of Special Criminal Courts. **38.**—(1) As soon as may be after the coming into force of this Part of this Act, there shall be established for the purposes of this Part of this Act, a court which shall be styled and known and is in this Act referred to as a Special Criminal Court.

(2) The Government may, whenever they consider it necessary or desirable so to do, establish such additional number of courts for the purposes of this Part of this Act as they think fit, and each court so established shall also be styled and known and is in this Act referred to as a Special Criminal Court.

(3) Whenever two or more Special Criminal Courts are in existence under this Act, the Government may, if and so often as they so think fit, reduce the number of such Courts and for that purpose abolish such of those existing Courts as appear to the Government to be redundant.

Constitution of Special Criminal Courts. **39.**—(1) Every Special Criminal Court established under this Part of this Act shall consist of such uneven number (not being less than three) of members as the Government shall from time to time determine, and different numbers of members may be so fixed in respect of different Special Criminal Courts.

(2) Each member of a Special Criminal Court shall be appointed, and be removable at will, by the Government.

(3) No person shall be appointed to be a member of a Special Criminal Court unless he is a judge of the High Court or the Circuit Court, or a justice of the District Court, or a barrister of not less than seven years standing, or a solicitor of not less than seven years standing, or an officer of the Defence Forces not below the rank of commandant.

(4) The Minister for Finance may pay to every member of a Special Criminal Court such (if any) remuneration and allowances as the said Minister may think proper, and different rates of remuneration and allowances may be so paid to different members of any such Court, or to the members of different such Courts.

(5) The Government may appoint such registrars for the purposes of any Special Criminal Court as they think proper, and every such registrar shall hold his office on such terms and conditions and shall receive such (if any) remuneration as the Minister for Finance shall from time to time direct.

Verdicts of Special Criminal Courts. **40.—**(1) The determination of every question before a Special Criminal Court shall be according to the opinion of the majority of the members of such Special Criminal Court present at and taking part in such determination, but no member or officer of such Court shall disclose whether any such determination was or was not unanimous or, where such determination was not unanimous, the opinion of any individual member of such Court.

(2) Every decision of a Special Criminal Court shall be pronounced by such one member of the Court as the Court shall determine, and no other member of the Court shall pronounce or indicate his concurrence in or dissent from such decision.

Procedure of Special Criminal Courts. **41.—**(1) Every Special Criminal Court shall have power, in its absolute discretion, to appoint the times and places of its sittings, and shall have control of its own procedure in all respects and, shall for that purpose make, with the concurrence of the Minister for Justice, rules regulating its practice and procedure and may in particular provide by such rules for the issuing of summonses, the procedure for bringing (in custody or on bail) persons before it for trial, the admission or exclusion of the public to or from its sittings, the enforcing of the attendance of witnesses, and the production of documents.

(2) A Special Criminal Court sitting for the purpose of the trial of a person, the making of any order, or the exercise of any other jurisdiction or function shall consist of an uneven number (not less than three) of members of such Court present at and taking part in such sitting.

(3) Subject and without prejudice to the provisions of the next preceding sub-section of this section, a Special Criminal Court may exercise any power, jurisdiction, or function notwithstanding one or more vacancies in the membership of such court.

(4) Subject to the provisions of this Act, the practice and procedure applicable to the trial of a person on indictment in the Central Criminal Court shall, so far as practicable, apply to the trial of a person by a Special Criminal Court, and the rules of evidence applicable upon such trial in the Central Criminal Court shall apply to every trial by a Special Criminal Court.

Authentication of orders of Special Criminal Courts. **42.—**(1) Every order or other act of a Special Criminal Court shall be authenticated by the signature of a registrar of that Court.

(2) Every document which purports to be an order or other act of a Special Criminal Court and to be authenticated by the signature of a registrar of that Court shall be received in evidence in all Courts and be deemed to be an order or other act (as the case may require) of such Special Criminal Court without proof of the signature by which such order or act purports to be authenticated or that the person whose signature such signature purports to be was a registrar of the said Special Criminal Court.

Jurisdiction of Special Criminal Courts. **43.—**(1) A Special Criminal Court shall have jurisdiction to try and to convict or acquit any person lawfully brought before that Court for trial under this Act, and shall also have the following ancillary jurisdictions, that is to say:—

- (a) jurisdiction to sentence every person convicted by that Court of any offence to suffer the punishment provided by law in respect of such offence;
- (b) jurisdiction, in lieu of or in addition to making any other order in respect of a person, to require such person to enter into a recognisance before such Special Criminal Court or before a justice of the District Court, in such amount and with or without sureties as such Special Criminal Court shall direct, to keep the peace and be of good behaviour for such period as that Court shall specify;
- (c) jurisdiction to order the detention of and to detain in civil or military custody, or to admit to bail in such amount and with or without sureties as that Court shall direct, pending trial by that Court and during and after such trial until conviction or acquittal, any person sent, sent forward, transferred, or otherwise brought for trial by that Court;
- (d) power to administer oaths to witnesses;
- (e) jurisdiction and power to punish, in the same manner and in the like cases as the High Court, all persons whom such Special Criminal Court finds guilty of contempt of that Court or any member thereof, whether such contempt is or is not committed in the presence of that Court;
- (f) power, in relation to recognisances and bail bonds entered into before such Special Criminal Court, to estreat such recognisances and bail bonds in the like manner and in the like cases as the District Court estreats recognisances and bail bonds entered into before it.

(2) The provisions of this Part of this Act in relation to the carrying out of sentences of imprisonment pronounced by Special Criminal Courts and the regulations made under those provisions shall apply and have effect in relation to the carrying out of orders made by Special Criminal Courts under the foregoing sub-section of this section for the detention of persons in custody, whether civil or military.

Appeal to Court of Criminal Appeal. **44.—**(1) A person convicted by a Special Criminal Court of any offence or sentenced by a Special Criminal Court to suffer any punishment may appeal to the Court of Criminal Appeal from such conviction or sentence if, but only if, either he obtains from that Special Criminal Court a certificate that the case is a fit case for appeal or, where such Special Criminal Court refuses to grant such certificate, the Court of Criminal Appeal on appeal from such refusal grants to such person leave to appeal under this section.

(2) Sections 28 to 30 and sections 32 to 35 of the Courts of Justice Act, 1924 (No. 10 of 1924), and sections 5, 6, and 7 of the Courts of Justice Act, 1928 (No. 15 of 1928), shall apply and have effect in relation to appeals under this section in like manner as they apply and have effect in relation to appeals under section 31 of the Courts of Justice Act, 1924.

Proceedings in the District Court in relation to scheduled offences. **45.—**(1) Whenever a person is brought before a justice of the District Court charged with a scheduled offence which such justice has jurisdiction to dispose of summarily, such justice shall, if the Attorney-General so requests, send such person (in custody or on bail) for trial by a Special Criminal Court on such charge.

(2) Whenever a person is brought before a justice of the District Court charged with a scheduled offence which is an indictable offence and such justice receives informations in relation to such charge and sends such person forward for trial on such charge, such justice shall (unless the Attorney-General otherwise directs) send such person forward in custody or, with the consent of the Attorney-General, at liberty on bail for trial by a Special Criminal Court on such charge.

(3) Where under this section a person is sent or sent forward in custody for trial by a Special Criminal Court, it shall be lawful for the High Court, on the application of such person, to allow him to be at liberty on such bail (with or without sureties) as the High Court shall fix for his due attendance before the proper Special Criminal Court for trial on the charge on which he was so sent forward.

Proceedings in the District Court in relation to non-scheduled offences. **46.—**(1) Whenever a person is brought before a justice of the District Court charged with an offence which is not a scheduled offence and which such justice has jurisdiction to dispose of summarily, such justice shall, if the Attorney-General so requests and certifies in writing that the ordinary courts are in his opinion inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to the trial of such person on such charge, send such person (in custody or on bail) for trial by a Special Criminal Court on such charge.

(2) Whenever a person is brought before a justice of the District Court charged with an indictable offence which is not a scheduled offence and such justice receives informations in relation to such charge and sends such person forward for trial on such charge, such justice shall, if an application in this behalf is made to him by or on behalf of the Attorney-General grounded on the certificate of the Attorney-General that the ordinary Courts are, in his opinion, inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to the trial of such person on such charge, send such person forward in custody or, with the consent of the Attorney-General, at liberty on bail for trial by a Special Criminal Court on such charge.

(3) Where under this section a person is sent or sent forward in custody for trial by a Special Criminal Court, it shall be lawful for the High Court, on the application of such person, to allow him to be at liberty on such bail (with or without sureties) as the High Court shall fix for his due attendance before the proper Special Criminal Court for trial on the charge on which he was so sent forward.

Charge before Special Criminal Court in lieu of District Court. **47.—**(1) Whenever it is intended to charge a person with a scheduled offence, the Attorney-General may, if he so thinks proper, direct that such person shall, in lieu of being charged with such offence before a justice of the District Court, be brought before a Special Criminal Court and there charged with such offence and, upon such direction being so given, such person shall be brought before a Special Criminal Court and shall be charged before that Court with such offence and shall be tried by such Court on such charge.

(2) Whenever it is intended to charge a person with an offence which is not a scheduled offence and the Attorney-General certifies that the ordinary Courts are, in his opinion, inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to the trial of such person on such charge, the foregoing subsection of this section shall apply and have effect as if the offence with which such person is so intended to be charged were a scheduled offence.

(3) Whenever a person is required by this section to be brought before a Special Criminal Court and charged before that Court with such offence, it shall be lawful for such Special Criminal Court to issue a warrant for the arrest of such person and the bringing of him before such Court and, upon the issue of such warrant, it shall be lawful for such person to be arrested thereunder and brought in custody before such Court.

Transfer of trials from ordinary Courts to a Special Criminal Court. **48.—**Whenever a person charged with an offence has been sent forward by a justice of the District Court for trial by the Central Criminal Court or the Circuit Court on such charge, then and in every such case the following provisions shall have effect, that is to say:—

- (a) if the Attorney-General certifies that the ordinary Courts are, in his opinion, inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to the trial of such person on such charge, the Attorney-General shall cause an application, grounded on his said certificate, to be made on his behalf to the High Court for the transfer of the trial of such person on such charge to a Special Criminal Court, and on the hearing of such application the High Court shall make the order applied for, and thereupon such person shall be deemed to have been sent forward to a Special Criminal Court for trial on such charge;
- (b) whenever the High Court has made, under the next preceding paragraph of this sub-section, such order as is mentioned in that paragraph, the following provisions shall have effect, that is to say:—
 - (i) a copy of such order shall be served on such person by a member of the *Gárda Síochána*,
 - (ii) a copy of such order shall be sent to the appropriate county registrar,
 - (iii) such person shall be brought before a Special Criminal Court for trial at such time and place as that Court shall direct,
 - (iv) if such person is in custody when such order is made, he may be detained in custody until brought before such Special Criminal Court for trial,
 - (v) if such person is at liberty on bail when such order is made, such bail shall be deemed to be for his attendance before a Special Criminal Court for trial at such time and place as that Court shall direct and, if he fails so to attend before the said Court, he shall be deemed to have broken his bail and his bail bond shall be estreated accordingly.

Selection of the Special Criminal Court by which a person is to be tried. **49.**—Where a person is (in the case of an offence triable summarily) sent or (in the case of an indictable offence) sent forward by a justice of the District Court to a Special Criminal Court for trial or the trial of a person is transferred under this Act to a Special Criminal Court or a person is to be charged before and tried by a Special Criminal Court, such of the following provisions as are applicable shall have effect, that is to say:—

- (a) where a person is so sent or sent forward, the justice shall not specify the particular Special Criminal Court to which he sends or sends forward such person for trial;
- (b) where the trial of a person is so transferred, the order effecting such transfer shall not specify the particular Special Criminal Court to which such trial is transferred;
- (c) if only one Special Criminal Court is in existence under this Act at the time of such sending or sending forward or such transfer (as the case may be), such sending, sending forward, or transfer shall be deemed to be to such one Special Criminal Court;

- (d) if only one Special Criminal Court is in existence under this Act when such person is to be so charged and tried, such person shall be charged before and tried by that Special Criminal Court;
- (e) if two or more Special Criminal Courts are in existence under this Act at the time of such sending or sending forward or such transfer or such charging (as the case may be), it shall be lawful for the Attorney-General to cause an application to be made on his behalf to such Special Criminal Court as he shall think proper for an order that such person be tried by or charged before and tried by that Court and thereupon the said Court shall make the order so applied for;
- (f) upon the making of the order mentioned in the next preceding paragraph of this section, whichever of the following provisions is applicable shall have effect, that is to say:—
 - (i) such person shall be deemed to have been sent or sent forward for trial by the Special Criminal Court which made the said order and all persons concerned shall act accordingly, or
 - (ii) the trial of such person shall be deemed to have been transferred to the said Special Criminal Court and all persons concerned shall act accordingly, or
 - (iii) such person shall be charged before and tried by the said Special Criminal Court and all persons concerned shall act accordingly.

Orders and
sentences of
Special Criminal
Courts.

50.—(1) Save as shall be otherwise provided by regulations made under this section, every order made or sentence pronounced by a Special Criminal Court shall be carried out by the authorities and officers by whom, and in the like manner as, a like order made or sentence pronounced by the Central Criminal Court is required by law to be carried out.

(2) Every order, conviction, and sentence made or pronounced by a Special Criminal Court shall have the like consequences in law as a like order, conviction, or sentence made or pronounced by the Central Criminal Court would have and, in particular, every order made and every sentence pronounced by a Special Criminal Court shall confer on the persons carrying out the same the like protections and immunities as are conferred by law on such persons when carrying out a like order made or a like sentence pronounced by the Central Criminal Court.

(3) The Minister for Justice may make regulations in relation to the carrying out of sentences of penal servitude or of imprisonment pronounced by Special Criminal Courts and the prisons and other places in which persons so sentenced shall be imprisoned and the maintenance and management of such places, and the said Minister may also, if he so thinks proper, make by writing under his hand such special provision as he shall think fit in relation to the carrying out of any such sentence in respect of any particular individual, including transferring to military custody any particular individual so sentenced.

(4) The Minister for Defence may make regulations in relation to the places and the manner generally in which persons transferred to military custody under the next preceding sub-section of this section shall be kept in such custody, and the said Minister may also, if he so thinks proper, make by writing under his hand such special provision as he shall think fit in respect of the custody of any particular such person.

Standing mute of malice and refusal to plead, etc. **51.—**(1) Whenever a person brought before a Special Criminal Court for trial stands mute when called upon to plead to the charge made against him, that Court shall hear such evidence (if any) relevant to the issue as to whether such person stands mute of malice or by the visitation of God as may then and there be adduced before it, and

(a) if that Court is satisfied on such evidence that such person is mute by the visitation of God, all such consequences shall ensue as would have ensued if such person had been found to be so mute by a Judge sitting in the Central Criminal Court, and

(b) if that Court is not so satisfied or if no such evidence is adduced, that Court shall direct a plea of "not guilty" to be entered for that person.

(2) Whenever a person brought before a Special Criminal Court for trial fails or refuses in any way, other than standing mute, to plead to the charge made against him when called upon to do so, that Court shall (without prejudice to its powers under the next following sub-section of this section) direct a plea of "not guilty" to be entered for such person.

(3) Whenever a person at any stage of his trial before a Special Criminal Court by any act or omission refuses to recognise the authority or jurisdiction of that Court, or does any act (other than lawfully objecting in due form of law to the jurisdiction of that Court to try him) which, in the opinion of that Court, is equivalent to a refusal to recognise that Court, or the authority or jurisdiction thereof, such person shall be guilty of contempt of that Court and may be punished by that Court accordingly.

Examination of detained persons. **52.—**(1) Whenever a person is detained in custody under the provisions in that behalf contained in Part IV of this Act, any member of the Gárda Síochána may demand of such person, at any time while he is so detained, a full account of such person's movements and actions during any specified period and all information in his possession in relation to the commission or intended commission by another person of any offence under any section or sub-section of this Act or any scheduled offence.

(2) If any person, of whom any such account or information as is mentioned in the foregoing sub-section of this section is demanded under that sub-section by a member of the Gárda Síochána, fails or refuses to give to such member such account or any such information or gives to such member any account or information which is false or misleading, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months.

Immunities of members, etc., of Special Criminal Courts. **53.—**(1) No action, prosecution, or other proceeding, civil or criminal, shall lie against any member of a Special Criminal Court in respect of any order made, conviction or sentence pronounced, or other thing done by that Court or in respect of anything done by such member in the course of the performance of his duties or the exercise of his powers as a member of that Court or otherwise in his capacity as a member of that Court, whether such thing was or was not necessary to the performance of such duties or the exercise of such powers.

(2) No action or other proceeding for defamation shall lie against any person in respect of anything written or said by him in giving evidence, whether written or oral, before a Special Criminal Court or for use in proceedings before a Special Criminal Court.

(3) No action, prosecution, or other proceeding, civil or criminal, shall lie against any registrar, clerk, or servant of a Special Criminal Court in respect of anything done by him in the performance of his duties as such registrar, clerk, or servant, whether such thing was or was not necessary to the performance of such duties.

PART VI.

Powers of Internment.

Commencement and cesser of this Part of this Act. **54.—**(1) This Part of this Act shall not come into or be in force save as and when and for so long as is provided by the subsequent sub-sections of this section.

(2) If and whenever and so often as the Government makes and publishes a proclamation declaring that the powers conferred by this Part of this Act are necessary to secure the preservation of public peace and order and that it is expedient that this Part of this Act should come into force immediately, this Part of this Act shall come into force forthwith.

(3) If at any time while this Part of this Act is in force the Government makes and publishes a proclamation declaring that this Part of this Act shall cease to be in force, this Part of this Act shall forthwith cease to be in force.

(4) Whenever the Government has made and published a proclamation under the second sub-section of this section, it shall be lawful for Dáil Éireann, at any time while this Part of this Act is in force by virtue of such proclamation, to pass a resolution annulling such proclamation, and thereupon such proclamation shall be annulled and this Part of this Act shall cease to be in force, but without prejudice to the validity of anything done under this Part of this Act after the making of such proclamation and before the passing of such resolution.

(5) A proclamation made by the Government under this section shall be published by publishing a copy thereof in the *Iris Oifigiúil* and may also be published in any other manner which the Government shall think proper.

Special powers of arrest and detention. **55.—**(1) Whenever a Minister of State is satisfied that any particular person is engaged in activities calculated to prejudice the preservation of the peace, order, or security of the State, such Minister may by warrant under his hand order the arrest and detention of such person under this section.

(2) Any member of the *Gárda Síochána* may arrest without other warrant any person in respect of whom a warrant has been issued by a Minister of State under the foregoing sub-section of this section.

(3) Every person arrested under the next preceding sub-section of this section shall be detained in a prison or other place prescribed in that behalf by regulations made under this Part of this Act until this Part of this Act ceases to be in force or until he is released under the subsequent provisions of this Part of this Act, whichever first happens.

Powers of search, etc., of detained persons. **56.—**(1) It shall be lawful for any member of the *Gárda Síochána* to do all or any of the following things in respect of any person who is arrested and detained under this Part of this Act, that is to say:—

- (a) to demand of such person his name and address;
- (b) to search such person or cause him to be searched;
- (c) to photograph such person or cause him to be photographed;
- (d) to take, or cause to be taken, the finger-prints of such person.

(2) Every person who shall obstruct or impede the exercise in respect of him by a member of the *Gárda Síochána* of any of the powers conferred by the next preceding sub-section of this section or shall fail or refuse to give his name and address when demanded of him by a member of the *Gárda Síochána* under the said sub-section or shall give a name or an address which is false or misleading shall be guilty of a contravention of the regulations made under this Part of this Act in relation to the preservation of discipline and shall be dealt with accordingly.

Release of detained persons. **57.—**A Minister of State may by writing under his hand, if and whenever he so thinks proper, order the release of any particular person who is for the time being detained under this Part of this Act, and thereupon such person shall forthwith be released from such detention.

Regulations in relation to places of detention. **58.—**A Minister of State may by order make regulations for all or any of the following purposes, that is to say:—

- (a) prescribing the prisons, internment camps, and other places in which persons may be detained under this Part of this Act;

- (b) providing for the efficient management, sanitation, control, and guarding of such prisons, internment camps, and other places;
- (c) providing for the enforcement and preservation of discipline amongst the persons detained in any such prison, internment camp, or other place as aforesaid;
- (d) providing for the punishment of persons so detained who contravene the regulations;
- (e) prescribing or providing for any other matter or thing incidental or ancillary to the efficient detention of persons detained under this Part of this Act.

Commission for inquiring into detentions. **59.—**(1) As soon as conveniently may be after this Part of this Act comes into force, the Government shall set up a Commission (in this section referred to as the Commission) to perform the functions imposed upon the Commission by this section.

(2) The following provisions shall apply and have effect in relation to the Commission, that is to say:—

- (a) the members of the Commission shall be appointed and be removable by the Government;
- (b) the Commission shall consist of three persons of whom one shall be a barrister or solicitor of not less than seven years standing or be or have been a judge of the Supreme Court, the High Court, or the Circuit Court or a justice of the District Court;
- (c) there may be paid out of moneys provided by the Oireachtas to any member of the Commission who is not in receipt of remuneration out of public funds such (if any) fees or remuneration as the Minister for Finance shall determine.

(3) Any person who is detained under this Part of this Act may apply in writing to the Government to have his said detention considered by the Commission, and upon such application being so made the following provisions shall have effect, that is to say:—

- (a) the Government shall forthwith refer the matter of such person's detention to the Commission;
- (b) the Commission shall inquire into the grounds of such person's detention and shall, with all convenient speed, report thereon to the Government;
- (c) the Minister for Justice shall furnish to the Commission such information and documents (relevant to the subject-matter of such inquiry) in the possession or procurement of the Government or of any Minister of State as shall be called for by the Commission;
- (d) if the Commission reports that no reasonable grounds exist for the detention of such person, such person shall within one week either be released or be charged according to law with an offence.

