

STATUTORY INSTRUMENTS

S.I. No. 413 of 2006

Garda Síochána (Reserve Members) Regulations 2006

I, MICHAEL MCDOWELL, Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 122 of the Garda Síochána Act 2005 (No. 20 of 2005), after consulting with the Garda Commissioner and with the approval of the Government, hereby make the following regulations:

Preliminary.

1. These Regulations may be cited as the Garda Síochána (Reserve Members) Regulations 2006.
2. These Regulations come into operation on the 1st day of August, 2006.

Definitions.

3. In these Regulations-

"Act" means the Garda Síochána Act 2005;

“designated certificate, licence or permit” means any certificate, licence or permit that is issued by the District Court, Circuit Court , Garda Síochána or Revenue Commissioners and that involves gain to the holder, including any such certificate, licence or permit issued pursuant to-

- (a) the Licensing Acts 1833 to 2004,

(b) the Betting Acts 1931 and 1994, or

(c) any laws regulating places of public entertainment;

“district officer” means the superintendent for the time being in charge of a Garda Síochána district;

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

"EEA Agreement" has the same meaning as in the European Communities (Amendment) Act 1993;

“former member” does not include a person who was a reserve member or a member of the civilian staff of the Garda Síochána;

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

“prescribed training” means a course of training prescribed by Regulation 6;

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Acts 1978 to 2002;

“relevant district officer”, in relation to a reserve member, means the district officer of the Garda Síochána district to which the reserve member has been allocated by or on behalf of the Garda Commissioner;

“reserve trainee” means a person recruited in accordance with these Regulations for admission to the prescribed training.

Recruitment of reserve trainees – eligibility requirements.

4. (1) The Garda Commissioner may not recruit a person for admission as a reserve trainee unless the following requirements are met:

- (a) the Garda Commissioner is satisfied that the person is of good character;
- (b) the person, for the purposes of paragraph (c), supplies to a registered medical practitioner nominated by the Garda Commissioner a medical certificate in such form as that practitioner may determine, detailing the person’s medical history for the previous 5 years;
- (c) the person is certified by that registered medical practitioner to be in good health, of sound constitution and fitted physically and mentally to perform the duties of a reserve member;

- (d) the person is not less than 18, but under 60, years of age when commencing the prescribed training;
- (e) the person -
 - (i) is a national of a Member State, an EEA State or the Swiss Confederation,
 - (ii) is entitled under section 3, 18 or 24 of the Refugee Act 1996 to the rights and privileges specified in section 3 of that Act, or
 - (iii) has had a period of one year's continuous residence in the State immediately before the date of application to be accepted as a reserve trainee and, during the 8 years immediately preceding that period, has had a total residence in the State amounting to 4 years;
- (f) the person has, before the date of application to be accepted as a reserve trainee, obtained -
 - (i) in the Leaving Certificate Examination of the Department of Education and Science or the Leaving Certificate Vocational Programme of that Department-

- (I) in mathematics, a grade not lower than B3 at foundation level or not lower than D3 at a level other than foundation level,
 - (II) in 2 languages, at least one of which must be either English or Irish, a grade not lower, in the case of Irish, than C3 at foundation level or D3 at a level other than foundation level and, in the case of any other language, than D3 at ordinary level, and
 - (III) in not less than 2 other subjects, a grade not lower than D3 at ordinary level, or
- (ii) a grade not lower than the merit grade in the Leaving Certificate Applied of the Department of Education and Science, or
 - (iii) grades in at least 5 subjects (including mathematics and 2 languages at least one of which must be either Irish or English) in another examination (“the other examination”) of a kind that is, in the Minister’s opinion, of a standard not lower than the standard of either of the examinations referred to in clause (i), such

grades being grades that are, in the Minister's opinion,
equivalent to the grades specified in clause (i), or

- (iv) a grade in another assessment ("the other assessment")
of a kind that includes mathematics and 2 languages (at
least one of which must be Irish or English) and is, in
the Minister's opinion, of a standard not lower than the
standard of the assessment referred to in clause (ii),
such grade being a grade that is, in the Minister's
opinion, equivalent to the grade specified in clause (ii).

(2) In clause (iii) of paragraph (1)(f), the reference to the other
examination includes a reference to a combination of 2 or more examinations of the
kind referred to in that clause or of such an examination or examinations and either
of the examinations referred to in clause (i) of that paragraph.

(3) In clause (iv) of paragraph (1)(f), the reference to the other assessment
includes a reference to a combination of 2 or more assessments of the kind referred to
in that clause or of such an assessment or assessments and either of the examinations
referred to in clause (i) of that paragraph.

(4) A former member who, on retirement, received an 'exemplary', 'very
good' or 'good' discharge from the Garda Síochána is deemed to meet the
requirements of paragraphs (1)(a) and (e) and is exempt from meeting the
requirements of paragraph (1)(f).

(5) The Garda Commissioner may exempt a person from meeting the requirements of paragraph (1)(f) if satisfied that the person has personal attributes which otherwise render him or her suitable to be admitted as a reserve trainee.

(6) A period of residence in the State shall not be counted for the purposes of determining whether a person meets the 5 year residency requirement of paragraph (1)(e)(iii) if -

- (a) it is in contravention of section 5(1) of the Immigration Act 2004, or
- (b) it consists of a period during which the person was entitled to remain in the State in accordance only with section 9(2) of the Refugee Act 1996, whether that period occurred before or after the amendment of that section by section 7(c)(i) of the Immigration Act 2003.

Recruitment of reserve trainees - restrictions on admission to training.

5. (1) Notwithstanding that the requirements of Regulation 4 are met, a person may not be recruited for admission as a reserve trainee if the person-

- (a) holds a designated certificate, licence or permit,

- (b) is a member of the Defence Forces,
- (c) is an officer of court,
- (d) is an officer of the probation and welfare service,
- (e) is a bailiff,
- (f) is a prison officer,
- (g) is a practising barrister or a practising solicitor,
- (h) for reward or personal gain, manages or conducts, or assists in the management or conducting of, a concern or premises which is required by law to be operated under a licence, permit or certificate, the grant of which may be opposed by the Garda Síochána,
- (i) provides a security service within the meaning of the Private Security Services Act 2004,
- (j) serves summonses as a spare time activity, or
- (k) is employed in any occupation or holds any appointment or position which, in the opinion of the Garda Commissioner, may

cause a conflict of interest with the proper discharge of the duties of a reserve member.

(2) Notwithstanding any other provision of these Regulations, the Garda Commissioner may not recruit a person for admission as a reserve trainee if it appears to the Commissioner that the person is generally unsuitable for such admission.

Training of reserve members.

6. (1) For the purpose of section 15(2) of the Act, the following is the prescribed training:

- (a) Phase One - a two-day induction course, the components of this phase are to include-
 - (i) a welcome and introduction to the Garda Síochána,
 - (ii) an outline of what the Garda Síochána does and what it expects of reserve members,
 - (iii) an overview of the law on human rights,
 - (iv) an overview of the law, practice and procedure relating to the Garda Síochána,

- (v) the service requirements of the Garda Síochána
(including discipline, ethics, and organisational culture),
and
 - (vi) motivation;
- (b) Phase 2 – 56 hours of training, the components of this phase are to include training in the laws relating to-
 - (i) assault,
 - (ii) road traffic offences,
 - (iii) powers of arrest, and
 - (iv) arrestable offences,and training in the procedures relating to crime reports and Garda information technology systems;
- (c) Phase 3 - two days of training, the components of this phase are to include-
 - (i) role-play exercises, including radio procedures, and

- (ii) instruction in self defence, handcuff techniques and use of equipment;
- (d) Phase 4 – a minimum of 40 hours of training at a Garda station nominated by the Garda Commissioner, the components of this phase are to include-
 - (i) accompanied beat patrol with a member other than a reserve member, and
 - (ii) supervised station duty;
- (e) Phase 5 – a one day graduation.

(2) Notwithstanding paragraph (1), in the case of a former member, the prescribed training for the purpose of section 15(2) of the Act consists solely of the two-day induction course described in paragraph (1)(a).

Restrictions on appointment as a reserve member.

7. (1) The Garda Commissioner may not appoint a person as a reserve member if the person -

- (a) holds a designated certificate, licence or permit,

- (b) is a member of the Defence Forces,
- (c) is an officer of court,
- (d) is an officer of the probation and welfare service,
- (e) is a bailiff,
- (f) is a prison officer,
- (g) is a practising barrister or a practising solicitor,
- (h) for reward or personal gain, manages or conducts or assists in the management or conducting of a concern or premises which is required by law to be operated under a licence, permit or certificate, the grant of which may be opposed by the Garda Síochána,
- (i) provides a security service within the meaning of the Private Security Services Act 2004,
- (j) serves summonses as a spare time activity,
- (k) is employed in any occupation or holds any appointment or position which, in the opinion of the Garda Commissioner, may

cause a conflict of interest with the proper discharge of the duties of a reserve member, or

- (1) has not completed the prescribed training.

Rank.

- 8. A person appointed as a reserve member holds the rank of reserve garda.

Probation.

- 9. (1) Subject to paragraph (3), a person appointed by the Garda Commissioner as a reserve member shall be on probation for a period of 2 years from the date of his or her appointment.

(2) If, in the opinion of the Garda Commissioner, the period of probation of a reserve member was interrupted by a significant period of absence from duty, the Commissioner may before, or upon, the expiration of the period of 2 years extend that member's period of probation for such further period, as the Commissioner, having regard to the circumstances of the case, determines.

(3) In each year of a reserve member's probation, the relevant district officer shall carry out an assessment of that member.

(4) The Garda Commissioner may at any time dispense with the services of a reserve member who is on probation if he or she considers that member is-

- (a) not suited, physically or mentally, to performing the functions of a reserve member, or
- (b) not likely to perform the functions of a reserve member efficiently or otherwise to conduct himself or herself in a manner befitting a reserve member.

Cessation of service as a reserve member.

10. (1) A reserve member's service shall end when he or she reaches the age of 65.

(2) A reserve member may end his or her service by giving 30 days notice in writing to the Garda Commissioner, or such shorter period as may be accepted by the Commissioner, and that service shall end on the expiration of the notice concerned.

(3) The Garda Commissioner may at any time dispense with the services of a reserve member if he or she considers that member is-

- (a) no longer suited, physically or mentally, to performing the functions of a reserve member, or

- (b) no longer likely to perform the functions of a reserve member efficiently or otherwise to conduct himself or herself in a manner befitting a reserve member.

(4) The Garda Commissioner shall dispense with the services of a reserve member if the Commissioner becomes aware of any change in that member's circumstances that would have made him or her ineligible for appointment under Regulation 7 had he or she not already been a reserve member.

Deployment.

11. (1) A reserve member may only be placed on duty by, or on behalf of, the relevant district officer.

(2) A reserve member may not place himself or herself on duty.

(3) A reserve member shall be placed on duty under the supervision of a member of another rank.

(4) A reserve member may not be required to serve more than 208 hours of duty in any 12 month period.

Assignment of duties.

12. (1) Subject to section 15(5) of the Act, a reserve member may only be assigned duties by, or on behalf of, the relevant district officer.

(2) When assigning duties to a reserve member, the relevant district officer, or a member authorised in that behalf by that officer, shall take into account -

- (a) the policing requirements of the district under his or her control,
- (b) the employment obligations and availability of that reserve member,
- (c) the location of the reserve member's home, and
- (d) the general policy of not assigning a reserve member duties in his or her own immediate neighbourhood.

(3) For the purpose of paragraph (2), a reserve member shall inform the relevant district officer if a relative of that member holds a designated certificate, licence or permit for a premises situated in the Garda Síochána district to which the reserve member is normally allocated.

(4) In this Regulation, "relative" means a spouse, parent, child or sibling.

Duty to carry out lawful orders.

13. (1) A reserve member shall obey all lawful orders and shall at all times punctually and promptly perform all duties assigned to him or her.

(2) A reserve member shall not give or purport to give any order to a member of any other rank.

Liaison officers.

14. (1) The Garda Commissioner shall appoint a member not lower than the rank of inspector to act as a divisional liaison officer in each Garda division in which reserve members are serving.

(2) A divisional liaison officer appointed under paragraph (1) shall coordinate the work of reserve members in his or her division and shall assist their integration into the Garda Síochána.

Annual allowance.

15. (1) A reserve member shall be paid by the Garda Commissioner in respect of expenses incurred in performing functions as a reserve member an annual allowance in an amount not exceeding the amount that may be determined by the Minister for Finance.

(2) In this Regulation, ‘expenses’ does not include expenses specified in Regulation 16.

Expenses relating to court appearances.

16. (1) The Garda Commissioner may reimburse a reserve member for any expenses necessarily incurred by him or her in attending, in connection with that reserve member’s service and outside that member’s assigned hours of duty, a court, tribunal or other body established by law.

(2) The rate of expenses to be paid under this Regulation shall equal but not exceed the rates sanctioned from time to time by the Minister for Finance in respect of lay witnesses who give evidence on behalf of the State in criminal cases.

Uniform and equipment.

17. (1) A reserve member shall be provided with a uniform free of charge.

(2) A reserve member shall only use the uniform and any equipment issued to him or her for the purposes of his or her duty as a reserve member.

(3) A reserve member shall immediately return to the relevant district officer all Garda property (including notebooks, uniform and equipment) in the event of the termination of that member’s service.

The Government hereby approve the foregoing Regulations.

GIVEN under the Official Seal of the Government,

26th July 2006.

L.S.

BERTIE AHERN,

Taoiseach.

GIVEN under my Official Seal,

26th July 2006.

L.S.

MICHAEL MCDOWELL,

Minister for Justice, Equality

and Law Reform.

Explanatory Note
(this note is not part of these Regulations and does not purport to be a legal interpretation)

These regulations are made under section 122 and in accordance with section 15 of the Garda Síochána Act 2005.

Section 15 of the Garda Síochána Act 2005, (No. 20 of 2005), provides for the appointment of reserve members by the Garda Commissioner. Such appointments are conditional upon the submission of training proposals by the Commissioner to the Minister, and the making of regulations concerning the recruitment, training, and terms and conditions of reserve members.

The Garda Commissioner made a formal submission to the Minister in April 2006 setting out the proposed training for reserve members; the proposed eligibility requirements for recruits; and the powers and duties of recruits.

The duties to be carried out, and the powers to be exercised, by reserve members are not addressed in these regulations. Under section 15 (5) of the Act, the range of powers and duties is a matter for the Garda Commissioner to determine. The Garda Commissioner has initially determined that the duties of a reserve member shall include the following:-

- Station Duty, other than the care and custody of prisoners;
- Assistant to the Station Orderly;
- Communications room duty, to include monitoring CCTV;
- Foot patrol, accompanied by a member of the permanent Garda Service;
- Static Security duty;
- Road Traffic checkpoint duties, accompanied by a full time member;
- Duty at the outer cordon of major events such as festivals and major sporting events;
- Assisting in the event of accidents, fires and major emergencies;
- Giving evidence in Court;
- Community / Neighbourhood Policing.

The Garda Commissioner has also initially determined that the powers of reserve members will be confined to the enforcement of certain aspects of the following Acts:

under the Road Traffic Acts - demanding driving licences and insurance details, enforcing the wearing of seat belts etc;

under the Public Order Act – dealing with the offences of intoxication, threatening behaviour, disorderly conduct and failure to comply with the direction of a member of An Garda Síochána; and

under the Criminal Justice (Theft and Fraud Offences) Act – dealing with the offences of theft and burglary.

Reserve members will also be given the power of arrest under the Criminal Law Act 1997, which provides powers of arrest for both members of the Garda Síochána and civilians.

Regulations 1 to 3 provide for the usual preliminaries and definitions.

Regulations 4 and 5 deal with the eligibility requirements for recruits and address such issues as good character, health, residency, age and education. The requirements are broadly the same as those for full-time Gardaí, except that recruits may join up to the age of 60, and the Garda Commissioner may waive the educational requirements if satisfied that a person has personal attributes which otherwise renders him or her suitable. A number of classes of persons are not eligible for recruitment including publicans, soldiers, court officials, practising lawyers and private security guards.

Regulation 6 sets out the prescribed training for reserves. It involves more than 120 hours of training in 5 phases and covers: the role of the Garda Síochána; what is expected from reserve members; human rights law; an overview of law, practice and procedure governing the Garda Síochána; ethics; laws and procedures relating to assault, road traffic offences, crime reports, powers of arrest, arrestable offences, the use of PULSE; radio procedures, self defence, use of equipment, etc. The training will also include 40 hours in a Garda station involving beat patrol and station duty.

Regulation 7 deals with formal appointment as a reserve member.

Regulation 8 creates the rank of reserve Garda.

Regulation 9 provides for a two-year probation period for reserve Gardaí, which may be extended in certain circumstances.

Regulation 10 provides for the cessation of service as a reserve Garda at age 65, or by the member giving 30 days notice, or where the Garda Commissioner considers the member no longer fitted, mentally or physically, to performing the functions of a reserve member. The Commissioner can also dispense with the services of a Reserve Garda whom he or she considers no longer likely to perform the functions of a reserve member efficiently or otherwise conduct himself or herself in a manner befitting a reserve member.

Regulations 11 and 12 address the duties and deployment of reserve members. Reserve members can be required to perform up to 208 hours of duty per annum. They may not place themselves on duty and must be supervised by full-time members at all times. When assigning a reserve member to duties the District Officer must take into account, inter alia, the general policy of reserve members not patrolling in their own immediate neighbourhood.

Regulation 13 requires reserve members to carry out lawful orders.

Regulation 14 provides for liaison officers to assist in the integration of reserve members in each Garda Division.

Regulations 15 and 16 deal with allowances. Reserve members will not be employees and will not be paid for carrying out duties. They will receive allowances in respect of expenses incurred. A witness expenses scheme will apply to reserve Gardaí similar to that in operation for civilian witnesses at criminal trials.

Regulation 17 provides for the supply of uniform and equipment.