

S.I. No. 119/1987:
CRIMINAL JUSTICE
ACT, 1984
(TREATMENT OF
PERSONS IN
CUSTODY IN GARDA
SÍOCHÁNA
STATIONS)
REGULATIONS, 1987.

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S.I. No. 119 of 1987.

CRIMINAL JUSTICE ACT, 1984 (TREATMENT OF PERSONS IN
CUSTODY IN GARDA SÍOCHÁNA STATIONS) REGULATIONS.

1987.

Preliminary and General

I, GERARD COLLINS, Minister for Justice, in exercise of the powers conferred on me by [section 7](#) of the [Criminal Justice Act, 1984](#) (No. 22 of 1984), hereby make the following Regulations with respect to which, pursuant to that section, a draft has been laid before each House of the Oireachtas and a resolution approving of the draft has been passed by each such House:

Title and commencement.

1. (1) These Regulations may be cited as the [Criminal Justice Act, 1984](#) (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987.

(2) These Regulations shall come into operation one month after the date on which they are made.

Interpretation.

2. (1) In these Regulations:—

"the Act" means the [Criminal Justice Act, 1984](#) (No. 22 of 1984);

"adult" means a person not below the age of eighteen years and

"adult relative" shall be construed accordingly;

"arrested person" means a person who is taken on arrest to, or arrested in, a station;

"custody" means custody in a Garda Síochána station;

"custody record" means a record kept under Regulation 6;

"district" means a Garda Síochána district;

"doctor" means a registered medical practitioner;

"member" means a member of the Garda Síochána;

"member in charge" has the meaning assigned to it by Regulation 4(1);

"station" means a Garda Síochána station;

"superintendent" means a superintendent of the Garda Síochána and, in relation to a district, means a superintendent who is in charge of the district and includes an inspector of the Garda Síochána who is in charge of the district in the superintendent's absence.

(2) In these Regulations a reference to a person signing a document shall include, in the case of a person unable to write, a reference to the person making his mark.

(3) In Regulations 12(8) and 18(1) "appropriate adult", in relation to a person in custody, means—

(a) in case the person is married and his spouse is an adult and is readily available, his spouse, and

(b) in any other case, his parent or guardian or, where a parent or guardian is not readily available, an adult relative or some other responsible adult, as may be appropriate, in attendance at the station pursuant to subparagraph (b) or (c) of Regulation 13(2).

(4) If and for so long as the member in charge of a station in which a person is in custody has reasonable grounds for believing that the person is not below the age of seventeen years, the provisions of these Regulations shall apply as if he had attained that age.

(5) In these Regulations a reference to a Regulation is a reference to a regulation of these Regulations and a reference to a paragraph or subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other Regulation or provision, as may be appropriate, is intended.

General.

3. (1) In carrying out their functions under these Regulations members shall act with due respect for the personal rights of persons in custody and their dignity as human persons, and shall have regard for the special needs of any of them who may be under a physical or mental disability, while complying with the obligation to prevent escapes from custody and continuing to act with diligence and determination in the investigation of crime and the protection and vindication of the personal rights of other persons.

(2) There shall be no unnecessary delay in dealing with persons in custody.

Member in charge.

4. (1) In these Regulations "member in charge" means the member who is in charge of a station at a time when the member in charge of a station is required to do anything or cause anything to be done pursuant to these Regulations.

(2) The superintendent in charge of a district shall issue instructions in writing from time to time, either generally or by reference to particular members or members of particular ranks or to particular circumstances, as to who is to be the member in charge of each station in the district.

(3) As far as practicable, the member in charge shall not be a member who was involved in the arrest of a person for the offence in respect of which he is in custody in the station or in the investigation of that offence.

(4) The superintendent in charge of a district shall ensure that a written record is maintained in each station in his district containing the name and rank of the member in charge at any given time.

Duties of member in charge.

5. (1) The member in charge shall be responsible for overseeing the application of these Regulations in relation to persons in custody in the station and for that purpose shall visit them from time to time and make any necessary enquiries.

(2) *Paragraph (1)* is without prejudice to the responsibilities and duties of any other member in relation to persons in custody.

(3) Where it appears to the member in charge that a direction given or action taken by a member of higher rank is inconsistent with the proper application of these Regulations, he shall inform that member accordingly and, unless the matter is resolved, report it without delay to another member of or above the rank of superintendent.

(4) (a) Where, by reason of the number of persons in custody or other circumstances, the member in charge is unable to carry out adequately the duty imposed on him by *paragraph (1)* in relation to visiting persons in custody and making any necessary enquiries, he may authorise in writing another member to carry out that duty.

(b) The authorisation shall specify the reasons for giving it and shall terminate when these reasons no longer apply.

(c) In the case of the Bridewell Station, Dublin, the member with particular responsibility for the cell area shall be deemed to have been authorised under subparagraph (a) by the member in charge and subparagraph (b) shall not apply.

Custody record.

6. (1) A record (in these Regulations referred to as the custody record) shall be kept in respect of each person in custody.

(2) The member in charge shall record or cause to be recorded in the custody record as soon as practicable such information as is required to be recorded by these Regulations. Each entry in the record shall be signed or initialled by the member making it.

(3) Where a person in custody is transferred to another station, the member in charge of the station from which he is transferred shall send with him the custody record relating to him, or a copy of it, to the member in charge of that other station.

(4) Without prejudice to the responsibility of any other member for the accuracy and completeness of any entry which he has made in a custody record, the member in charge shall be responsible for the accuracy and completeness of all entries made in the custody record while he is the member in charge.

(5) Paragraph (2) does not apply to a record referred to in Regulation 10(5) or paragraph (10) or (11) of Regulation 12.

Arrested persons

Record of arrest and detention

7. (1) in relation to an arrested person, a record shall be made of—

(a) the date, time and place of arrest and the identity of the arresting member (or other person effecting the arrest),

(b) the time of arrival at the station,

(c) the nature of the offence or other matter in respect of which he was arrested, and

(d) any relevant particulars relating to his physical or mental condition.

(2) In the case of a person who is being detained in a station pursuant to section 4 of the Act the member in charge at the time of the person's arrival at the station shall, when authorising the detention, enter in the custody record and sign the following statement:

"I have reasonable grounds for believing that the detention of *(insert here the name of the person detained)* is necessary for the proper investigation of the offence(s) in respect of which he/she has been arrested."

(3) (a) Where a direction has been given by an officer of the Garda Síochána under section 4(3)(b) of the Act that a person be detained for a further period not exceeding six hours, the fact that the direction was given, the date and time when it was given and the name and rank of the officer who gave it shall be recorded.

(b) The direction or (if it was given orally) the written record of it shall be signed by the officer giving it and—

(i) shall state the date and time when it was given and the officer's name and rank and that the officer had reasonable grounds for believing that such further detention was necessary for the proper investigation of the offence concerned, and

(ii) shall be attached to and form part of the custody record.

(4) Where a direction has been given under [section 30](#) of the [Offences against the State Act, 1939](#) (No. 13 of 1939), that a person be detained for a further period not exceeding twenty-four hours, the fact that the direction was given, the date and time when it was given and the name and rank of the officer who gave it shall be recorded.

Information to be given to an arrested person.

8. (1) The member in charge shall without delay inform an arrested person or cause him to be informed—

(a) in ordinary language of the offence or other matter in respect of which he has been arrested,

(b) that he is entitled to consult a solicitor, and

(c) (i) in the case of a person not below the age of seventeen years, that he is entitled to have notification of his being in custody in the station concerned sent to another person reasonably named by him, or

(ii) in the case of a person under the age of seventeen years, that a parent or guardian (or, if he is married, his spouse) is being given the information required by Regulation 9(1)(a)(i) and is being requested to attend at the station without delay.

The information shall be given orally. The member in charge shall also explain or cause to be explained to the arrested person that, if he does not wish to exercise a right specified in subparagraph (b) or (c)(i) immediately, he will not be precluded thereby from doing so later.

(2) The member in charge shall without delay give the arrested person or

cause him to be given a notice containing the information specified in subparagraphs (b) and (c) of paragraph (1) and such other information as the Commissioner of the Garda Síochána, with the approval of the Minister for Justice, may from time to time direct.

(3) Paragraphs (1) and (2) apply only in relation to the member in charge of the station to which an arrested person is taken on arrest or in which he is arrested.

(4) The time of the giving of the information specified in paragraph (1) and the notice specified in paragraph (2) shall be recorded. The member in charge shall ask the arrested person or cause him to be asked to sign the custody record in acknowledgement of receipt of the notice. If he refuses to sign, the refusal shall be recorded.

Notification to solicitor or other persons.

9. (1) (a) Where an arrested person is under the age of seventeen years, the member in charge of the station concerned shall as soon as practicable—

(i) inform or cause to be informed a parent or guardian of the person—

(I) of his being in custody in the station,

(II) in ordinary language of the offence or other matter in respect of which he has been arrested, and

(III) of his entitlement to consult a solicitor, and

(ii) request the parent or guardian to attend at the station without delay.

(b) If the member in charge is unable to communicate

with a parent or guardian, he shall inform the arrested person or cause him to be informed without delay of that fact and of his entitlement to have notification of his being in custody in the station concerned sent to another person reasonably named by him.

(c) If the arrested person is married, this paragraph shall have effect with the substitution of references to his spouse for the references to a parent or guardian.

(2) (a) Where an arrested person has asked for a solicitor or has asked that a person reasonably named by him should be notified of his being in custody in the station concerned—

(i) the member in charge shall notify or cause to be notified the solicitor or that person accordingly as soon as practicable, and

(ii) if the solicitor or the named person cannot be contacted within a reasonable time or if the solicitor is unable or unwilling to attend at the station, the person shall be given an opportunity to ask for another solicitor or that another person reasonably named by him should be notified as aforesaid and, if the person asks for another solicitor or asks that another person reasonably named by him should be notified as aforesaid, the member in charge shall notify or cause to be notified that other solicitor or person accordingly as soon as practicable.

(b) If the arrested person is under the age of seventeen years, subparagraph (a) shall also apply in relation to a request for a solicitor by a parent of his or his guardian or spouse or by an adult who is present during the questioning of the arrested person in accordance with subparagraph (b) or (c) of Regulation 13(2) with the

substitution of references to a parent of his, his guardian or spouse or such an adult for the references to an arrested person.

(3) Where an arrested person is being transferred to another station, the member in charge of the station from which he is being transferred shall inform any person who has been notified or informed under this Regulation, or cause him to be informed, of the transfer as soon as practicable.

(4) Any request made by a person under this Regulation and the time at which it was made and complied with and any action taken by a member under this Regulation and the time at which it was taken shall be recorded.

Enquiries.

10. (1) Information as to the station where an arrested person is in custody shall be given—

(a) if the arrested person consents, in response to an enquiry by a solicitor whose presence has not been requested by him;

(b) if the arrested person consents and the member in charge is satisfied that giving the information will not hinder or delay the investigation of crime, in response to an enquiry by any other person.

(2) As soon as practicable after a person is taken on arrest to, or arrested in, a station other than a district headquarters, the member in charge of the station shall notify the district headquarters for the district or cause it to be notified accordingly and shall also, as soon as practicable, notify the district headquarters for the district or cause it to be notified if the person is transferred to another station or ceases to be in the custody of the Garda Síochána.

(3) Where a person is in custody in a district other than that in which he

resides, the member in charge shall also, as soon as practicable, notify or cause to be notified the district headquarters for the district in which the person resides.

(4) A notification to a district headquarters under this Regulation and the time of the notification shall be recorded.

(5) A record shall be kept in each district headquarters of persons whose whereabouts have been notified to it under this Regulation and of the times of the notifications.

(6) The Commissioner of the Garda Síochána may from time to time designate a station or stations in the Dublin Metropolitan Area for the purpose of receiving notifications under this Regulation and, if and for so long as a station or stations is or are so designated, then notwithstanding anything in this Regulation, as respects a district in that Area—

(a) the said notifications shall be made to the station, or one of the stations, so designated and, in case the person in custody resides in a district outside that Area, to the district headquarters for that district, and

(b) paragraphs (4) and (5) shall have effect as if the reference in paragraph (4) to a district headquarters were a reference to a station so designated and as if the reference in paragraph (5) to each district headquarters were a reference to the station or, as the case may be, each of the stations so designated.

(7) In this Regulation "district headquarters" means the Garda Síochána headquarters for a district.

Visits and communications.

11. (1) An arrested person shall have reasonable access to a solicitor of his

choice and be enabled to communicate with him privately.

(2) Where an arrested person has not had access to a solicitor in accordance with paragraph (1) and a solicitor whose presence has not been requested by the arrested person presents himself at the station and informs the member in charge that he wishes to visit that person, the person shall be asked if he wishes to consult the solicitor and, if he does so wish, the said paragraph (1) shall apply accordingly.

(3) A consultation with a solicitor may take place in the sight but out of hearing of a member.

(4) An arrested person may receive a visit from a relative, friend or other person with an interest in his welfare provided that he so wishes and the member in charge is satisfied that the visit can be adequately supervised and that it will not hinder or delay the investigation of crime.

(5) (a) An arrested person may make a telephone call of reasonable duration free of charge to a person reasonably named by him or send a letter (for which purpose writing materials and, where necessary, postage stamps shall be supplied on request) provided that the member in charge is satisfied that it will not hinder or delay the investigation of crime. A member may listen to any such telephone call and may terminate it if he is not so satisfied and may read any such letter and decline to send it if he is not so satisfied.

(b) Subparagraph (a) is without prejudice to the provision of paragraph (1).

(6) Before an arrested person has a supervised visit or communicates with a person other than his solicitor, he shall be informed that anything he says during the visit or in the communication may be given in evidence.

Interviews (general).

12. (1) Before an arrested person is interviewed, the member conducting the interview shall identify himself and any other member present by name and rank to the arrested person.

(2) The interview shall be conducted in a fair and humane manner.

(3) Not more than two members shall question the arrested person at any one time and not more than four members shall be present at any one time during the interview.

(4) If an interview has lasted for four hours, it shall be either terminated or adjourned for a reasonable time.

(5) As far as practicable interviews shall take place in rooms set aside for that purpose.

(6) Where an arrested person asks for a solicitor, he shall not be asked to make a written statement in relation to an offence until a reasonable time for the attendance of the solicitor has elapsed.

(7) (a) Except with the authority of the member in charge, an arrested person shall not be questioned between midnight and 8 a.m. in relation to an offence, which authority shall not be given unless—

(i) he has been taken to the station during that period,

(ii) in the case of a person detained under section 4 of the Act, he has not consented in writing to the suspension of questioning in accordance with subsection (6) of that section, or

(iii) the member in charge has reasonable grounds for believing that to delay questioning the person

would involve a risk of injury to persons, serious loss of or damage to property, destruction of or interference with evidence or escape of accomplices.

(b) Subparagraph (a) (i) is subject to the provisions of Regulation 19 (2).

(8) (a) Where an arrested person is deaf or there is doubt about his hearing ability, he shall not be questioned in relation to an offence in the absence of an interpreter, if one is reasonably available, without his written consent (and, where he is under the age of seventeen years, the written consent of an appropriate adult) or in the circumstances specified in paragraph (7) (a) (iii).

(b) A consent shall be signed by the arrested person and be recorded in the custody record or a separate document.

(c) Where an arrested person has requested the presence of an interpreter under subparagraph (a) and one is not reasonably available, any questions shall be put to him in writing.

(9) An arrested person who is under the influence of intoxicating liquor or drugs to the extent that he is unable to appreciate the significance of questions put to him or his answers shall not be questioned in relation to an offence while he is in that condition except with the authority of the member in charge, which authority shall not be given except in the circumstances specified in paragraph (7) (a) (iii).

(10) If, while being interviewed, an arrested person makes a complaint to a member in relation to his treatment while in custody, the member shall bring it to the attention of the member in charge, if he is not present at the interview, and record it or cause it to be recorded in the record of the interview.

(11) (a) A record shall be made of each interview either by the member conducting it or by another member who is present. It shall include particulars of the time the interview began and ended, any breaks in it, the place of the interview and the names and ranks of the members present.

(b) Where an interview is not recorded by electronic or other similar means, the record shall—

(i) be made in the notebook of the member concerned or in a separate document and shall be as complete as practicable,

(ii) if it is practicable to do so and the member concerned is of opinion that it will not interfere with the conduct of the interview, be made while the interview is in progress or otherwise as soon as practicable afterwards, and

(iii) be signed by the member making it and include the date and time of signature.

(12) (a) A record shall be made of the times during which an arrested person is interviewed and the members present at each interview.

(b) Where an authority is given pursuant to this Regulation, the fact that it was given, the name and rank of the member giving the authority and the reasons for doing so shall be recorded.

(c) The fact that an arrested person has consented in writing under section 4 (6) of the Act to the suspension of questioning between midnight and 8 a.m. shall be recorded and the consent shall be attached to and form part of the custody record.

(d) The particulars specified in section 4 (6) (d) of the Act shall be recorded.

Interviews (persons under seventeen years).

13. (1) Except with the authority of the member in charge, an arrested person who is under the age of seventeen years shall not be questioned in relation to an offence or asked to make a written statement unless a parent or guardian is present, which authority shall not be given unless—

(a) it has not been possible to communicate with a parent or guardian in accordance with Regulation 9 (1) (a),

(b) no parent or guardian has attended at the station concerned within a reasonable time of being informed that the person was in custody and of being requested so to attend,

(c) it is not practicable for a parent or guardian to attend within a reasonable time, or

(d) the member in charge has reasonable grounds for believing that to delay questioning the person would involve a risk of injury to persons or serious loss of or damage to property, destruction of or interference with evidence or escape of accomplices:

Provided that a parent or guardian may be excluded from the questioning with the authority of the member in charge which authority shall not be given unless—

(i) the parent or guardian concerned is the victim of, or has been arrested in respect of, the offence being investigated,

(ii) the member in charge has reasonable grounds—

(I) for suspecting him of complicity in the offence, or

(II) for believing that he would, if present during the questioning, be likely to obstruct the course of justice, or

(III) while so present, his conduct has been such as to amount to an obstruction of the course of justice.

(2) Where an arrested person who is under the age of seventeen years is to be questioned in relation to an offence in the absence of a parent or guardian, the member in charge shall, unless it is not practicable to do so, arrange for the presence during the questioning of—

(a) the other parent or another guardian,

(b) if the other parent or another guardian is not readily available or his presence, having regard to the proviso to paragraph (1), is not appropriate, an adult relative, or

(c) if the other parent or another guardian or an adult relative is not readily available or the presence of the other parent or another guardian is, having regard to the said proviso, not appropriate, some other responsible adult other than a member.

(3) Where a request for the attendance of a solicitor is made during the questioning by the parent or guardian, spouse, adult relative or other adult present, Regulation 12(6) shall apply as if the request had been made by the arrested person.

(4) Where an authority is given to a member to question an arrested person in the absence of a parent or guardian, or to exclude a parent, guardian or other person from the questioning pursuant to paragraph (1) or (2), the fact that the authority was given, the name and rank of the member giving it,

the reasons for doing so and the action taken in compliance with the said paragraph (2) shall be recorded.

(5) (a) This Regulation is without prejudice to the provisions of Regulation 12.

(b) This Regulation (other than paragraph (3)), in its application to a person under the age of seventeen years who is married to an adult, shall have effect with the substitution of references to the person's spouse for the references (other than those in subparagraphs (a), (b) and (c) of paragraph (2)) to a parent or guardian and as if "a parent or guardian" were substituted for "the other parent or another guardian" in each place where it occurs in those subparagraphs.

Foreign nationals.

14. (1) The member in charge shall without delay inform or cause to be informed any arrested person who is a foreign national that he may communicate with his consul and that, if he so wishes, the consul will be notified of his arrest. The member in charge shall, on request, cause the consul to be notified as soon as practicable. Any communication addressed to him shall be forwarded as soon as practicable.

(2) Consular officers shall be entitled to visit one of their nationals, or a national of another State for whom, by formal or informal arrangement, they offer consular assistance, who is an arrested person and to converse and correspond with him and to arrange for his legal representation.

(3) This Regulation is without prejudice to the application to a national of a foreign country of the provisions of a consular convention or arrangement between the State and that country.

(4) If the member in charge has reasonable grounds for believing that an arrested person who is a foreign national is a political refugee or is seeking political asylum, a consular officer shall not be notified of his arrest or

given access to or information about him except at the express request of the foreign national.

(5) A record shall be made of the time when a foreign national was informed or notified in accordance with this Regulation, when any request was made, when the request was complied with and when any communication was forwarded to a consul.

(6) In this Regulation "consul" means, in relation to a foreign national, the diplomatic or consular representative of that person's own country either in the State or accredited to the State on a non-residential basis, or a diplomatic or consular representative of a third country which may formally or informally offer consular assistance to a national of a country which has no resident representative in the State.

Charge sheets.

15. (1) Where a person in custody is charged with an offence, a copy of the charge sheet containing particulars of the offence shall be given to him as soon as practicable. Where the person charged is under the age of seventeen years, a copy of the charge sheet shall also be given to the person's parent or guardian or (where the person is married to an adult) to the spouse if present when the person is charged or, if not present, shall be forwarded as soon as practicable.

(2) A record shall be made of the time when the person was charged with an offence. The charge sheet number (or numbers) shall also be recorded. Where a copy of a charge sheet is given to a person in the station, he shall be asked to sign the custody record in acknowledgement of its receipt. If he refuses to sign it, the refusal shall be recorded.

Persons other than arrested persons

Provisions relating to persons other than arrested persons.

16. (1) This Regulation applies to a person in custody other than an arrested person.

(2) Information as to the station where a person to whom this Regulation applies is in custody shall be given in response to an enquiry by—

(a) his solicitor,

(b) if the person consents, another solicitor,

(c) if the person consents and the member in charge is satisfied that giving the information will not prejudice the person's safe custody, any other person.

(3) Regulation 10, except paragraph (1), shall have effect in relation to a person to whom this Regulation applies and who is expected to remain in custody overnight.

(4) (a) Where a person to whom this Regulation applies has asked for a solicitor, the member in charge shall notify the solicitor or cause him to be notified accordingly.

(b) If the solicitor cannot be contacted within a reasonable time or if he is unable or unwilling to attend at the station, the person shall be given an opportunity to ask for another solicitor.

(5) (a) Paragraphs (1) and (2) of Regulation 11 shall have effect in relation to a person to whom this Regulation applies.

(b) Such a person may receive a visit from a relative, friend or other person with an interest in his welfare provided that he so wishes and the member in charge is satisfied that the visit can be adequately supervised and

that it will not be prejudicial to the interests of justice.

(6) Regulation 14, except paragraph (1), shall have effect in relation to a foreign national to whom this Regulation applies.

Provisions Applicable Generally

Searches.

17. (1) A member conducting a search of a person in custody shall ensure, so far as practicable, that the person understands the reason for the search and that it is conducted with due respect for the person being searched.

(2) A person in custody shall not be searched by a person (other than a doctor) of the opposite sex.

(3) Where a search of a person in custody involves removal of clothing, other than headgear or a coat, jacket, glove or similar article of clothing, no person of the opposite sex shall be present unless either that person is a doctor or the member in charge considers that the presence of that person is necessary by reason of the violent conduct of the person to be searched.

(4) A search of a person in custody involving removal of underclothing shall, where practicable, be carried out by a doctor.

(5) Where clothing or footwear of a person is retained, replacements of a reasonable standard shall be provided.

(6) A record shall be made of a search of a person in custody including the name of the person conducting the search and the names of those present.

(7) Particulars of any property taken from or handed over by a person in custody shall be recorded. The person shall be asked to sign the record of such property as being correct. If he refuses to do so, the refusal shall be

recorded at the time of refusal.

Fingerprints, etc.

18. (1) (a) Fingerprints, palm prints or photographs shall not be taken of, or swabs or samples taken from, a person in custody (otherwise than pursuant to a power conferred on a member by law) except with his written consent and, where he is under the age of seventeen years, the written consent of an appropriate adult.

(b) A consent shall be signed and be recorded in the custody record or a separate document.

(2) The fact that fingerprints, palm prints, photographs, swabs or samples have been taken of or from a person in custody shall be recorded.

(3) Where the authority of a member of the Garda Síochána of a specified rank is required for the taking of fingerprints, palm prints or photographs of a person in custody, the name and rank of the member giving the authority shall be recorded.

Conditions of custody.

19. (1) A person shall be kept in custody only in a station which has facilities to enable him to be treated in accordance with these Regulations for the period during which he is expected to be in custody in that station.

(2) A person in custody shall be allowed such reasonable time for rest as is necessary.

(3) A person in custody shall be provided with such meals as are necessary and, in any case, at least two light meals and one main meal in any twenty-four hour period. He may have meals supplied at his own expense where it is practicable for the member in charge to arrange this.

(4) Access to toilet facilities shall be provided for a person in custody.

(5) Where it is necessary to place persons in custody in cells, as far as practicable not more than one person shall be kept in each cell. Persons of the opposite sex shall not be placed in a cell together. A violent person shall not be placed in a cell with other persons if this can be avoided.

(6) Where a person is kept in a cell, a member shall visit him at intervals of approximately half an hour. A drunken person or a person under the influence of drugs shall be visited and spoken to and if necessary roused for this purpose at intervals of approximately a quarter of an hour for a period of two hours or longer if his condition warrants it.

(7) A member shall be accompanied when visiting a person in custody of the opposite sex who is alone in a cell.

(8) A person in custody under the age of seventeen years shall not be kept in a cell unless there is no other secure accommodation available and where practicable shall not be placed in a cell with an adult other than an adult relative.

Persons in custody not to be ill-treated.

20. (1) No member shall subject a person in custody to ill-treatment of any kind or the threat of ill-treatment (whether against the person himself, his family or any other person connected with him) or permit any other person to do so.

(2) No member shall use force against a person in custody except such reasonable force as is necessary—

(a) in self-defence,

(b) to secure compliance with lawful directions,

(c) to prevent his escape, or

(d) to restrain him from injuring himself or others, damaging property or destroying or interfering with evidence.

(3) If a member uses force which causes injury to a person in custody, he shall, if he is not the member in charge, report the circumstances to that member, who shall report the matter to the superintendent in charge of the district. If the force is used by the member in charge, he shall report the circumstances to that superintendent.

(4) If it comes to the notice of a member that there has been a contravention of paragraph (1), (2) or (3) by another member—

(a) he shall report the matter to the member in charge or (in case the contravention is by the member in charge) to the superintendent in charge of the district, and

(b) unless the matter has already been reported to that superintendent, the member in charge shall report it to him.

(5) The action taken in accordance with paragraph (3) or (4) shall be recorded.

(6) On receipt of a report under paragraph (3) or (4) by a superintendent, he shall investigate the matter without delay or cause it to be so investigated.

(7) If a person in custody makes a complaint concerning the conduct of a member (whether before or after his arrest) or, if such a complaint is made on his behalf, the fact that a complaint was made shall be recorded.

Particulars of the complaint shall be recorded in a separate document, a copy of which shall be attached to and form part of the custody record. If the complaint alleges physical ill-treatment, the member in charge shall arrange for the person to be medically examined as soon as practicable

unless, in a case where the allegation relates to another member, he considers the complaint to be frivolous or vexatious.

Medical treatment.

21. (1) If a person in custody—

(a) is injured,

(b) is under the influence of intoxicating liquor or drugs and cannot be roused,

(c) fails to respond normally to questions or conversation (otherwise than owing to the influence of intoxicating liquor alone),

(d) appears to the member in charge to be suffering from a mental illness, or

(e) otherwise appears to the member in charge to need medical attention,

The member in charge shall summon a doctor or cause him to be summoned, unless the person's condition appears to the member in charge to be such as to necessitate immediate removal to a hospital or other suitable place. The member in charge shall ensure that any instructions given by a doctor in relation to the medical care of a person in custody are complied with.

(2) Notwithstanding that paragraph (1) may not apply, medical advice shall be sought if the person in custody claims to need medication relating to a heart condition, diabetes, epilepsy or other potentially serious condition or the member in charge considers it necessary because the person has in his possession any such medication.

(3) The removal of a person in custody to a hospital or other suitable place and the time of removal shall be recorded. Any instructions given by a

doctor regarding the medical care of a person in custody and the steps taken to comply with them shall also be recorded.

(4) If a person in custody asks to be examined by a doctor of his choice at his own expense, the member in charge shall, if and as soon as practicable, make arrangements accordingly. This shall not preclude his examination by another doctor summoned by the member in charge provided that the person in custody consents to the examination.

(5) A record shall be made of any medical examination sought by the member in charge or person in custody, the time the examination was sought and the time it was carried out. If it is not practicable to accede to a request by a person in custody for medical examination by the doctor of his choice at his own expense, the relevant circumstances shall also be recorded.

(16) Where a person in custody has been removed to a hospital or other suitable place, an immediate relative and any other person required to be notified under Regulation 9 of the person's detention shall be so informed as soon as practicable. The time at which the relative and other person were informed shall be recorded.

Mentally handicapped persons.

22. (1) The provisions of these Regulations relating to persons under the age of seventeen years shall apply, in addition to any other applicable provisions, in relation to a person in custody not below that age whom the member in charge suspects or knows to be mentally handicapped.

(2) In the application of Regulation 13(2)(c) to such a person, the responsible adult referred to in that provision shall, where practicable, be a person who has experience in dealing with the mentally handicapped.

Other matters to be recorded.

23. Particulars relating to any of the following matters (including the

relevant time and the action, if any, taken by a member in relation thereto) shall also be recorded:

(a) visits to persons in custody by the member in charge or other members,

(b) any other visits to them,

(c) telephone and other enquiries concerning them,

(d) telephone calls made or letters sent by them,

(e) any requests made by them or by persons attending at the station and seeking to visit them,

(f) meals supplied to them,

(g) the ending of their custody (release, station bail, etc.).

Preservation of custody records.

24. (1) Custody records shall be preserved for at least twelve months or, if any proceedings to which a custody record would be relevant are instituted or any complaint is made in respect of the conduct of a member while a person was in custody, until the final determination of the proceedings or complaint, whichever is the later.

(2) When a person ceases to be in custody, he or his legal representative shall, on request made within twelve months thereafter, be supplied as soon as practicable with a copy of the custody record relating to him or of such entries in it as he may specify.

GIVEN under my Official Seal, this 16th day of April, 1987.

GERARD COLLINS,

Minister for Justice.

EXPLANATORY NOTE.

The regulations contain detailed provisions regarding the treatment of persons in custody in Garda stations.