



---

Number 25 of 1996

---

**DISCLOSURE OF CERTAIN INFORMATION FOR  
TAXATION AND OTHER PURPOSES ACT, 1996**

---

AN ACT TO PROVIDE FOR THE DISCLOSURE IN CERTAIN CIRCUMSTANCES OF INFORMATION BY THE REVENUE COMMISSIONERS TO EITHER OR BOTH THE GARDA SÍOCHÁNA AND CERTAIN OTHER PERSONS, TO PROVIDE FOR THE RECEIPT BY THE REVENUE COMMISSIONERS OF INFORMATION FROM THE GARDA SÍOCHÁNA, TO AMEND SECTIONS 32, 57 AND 64 OF THE CRIMINAL JUSTICE ACT, 1994, TO AMEND SECTIONS 18 AND 19 OF THE FINANCE ACT, 1983, TO AMEND THE BANKERS' BOOKS EVIDENCE ACT, 1879, TO PROVIDE FOR THE ANONYMITY OF AN OFFICER OF THE REVENUE COMMISSIONERS IN CERTAIN CIRCUMSTANCES AND TO PROVIDE FOR CONNECTED MATTERS. [30th July, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—The Criminal Justice Act, 1994, is hereby amended by the insertion of the following section after section 63:

Furnishing of  
certain information  
by Revenue  
Commissioners, etc.

“63A.—(1) In this section—

‘relevant investigation’ means an investigation of a kind referred to in subsection (1) of section 63 of this Act;

‘relevant person’ means—

- (a) a member of the Garda Síochána not below the rank of Chief Superintendent, or
- (b) the head of any body, or any member of that body nominated by the head of the body, being a body established by or under statute or by the Government, the purpose or one of the principal purposes of which is—
  - (i) the identification of the assets of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,

[No. 25.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [1996.]

S.1

- (ii) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
- (iii) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in *subparagraphs (i) and (ii)*.

(2) If, having regard to information obtained from a relevant person or otherwise, the Revenue Commissioners have reasonable grounds—

- (a) for suspecting that a person may have derived profits or gains from an unlawful source or activity, and
- (b) for forming the opinion that—
  - (i) information in their possession is likely to be of value to a relevant investigation which may be, or may have been, initiated, and
  - (ii) it is in the public interest that the information should be produced or that access to it should be given,

then, the Revenue Commissioners shall, subject to subsection (4) of this section and notwithstanding any obligation as to secrecy or other restriction upon disclosure of information imposed by or under any statute or otherwise, produce, or provide access to, such information to a relevant person.

- (3) (a) The Revenue Commissioners may authorise any officer of the Revenue Commissioners serving in a grade not lower than that of Principal Officer or its equivalent to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Revenue Commissioners and references in this section, other than in this subsection, to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to an officer so authorised.
- (b) The Revenue Commissioners may by notice in writing revoke an authorisation given by them under this section, without prejudice to the validity of anything previously done thereunder.
- (c) In any proceedings arising out of a relevant investigation, a certificate signed by a Revenue Commissioner or an officer authorised under paragraph (a) of this subsection, as the case may be, certifying that information specified in the certificate has been produced to or access to such information has been provided to a relevant person shall, unless the contrary is proved, be evidence without further proof of the matters stated therein or of the signature thereon.

[1996.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [No. 25.]

(4) Where information has been supplied to the Revenue Commissioners by or on behalf of the government of another state in accordance with an undertaking (express or implied) on the part of the Revenue Commissioners that the material will be used only for a particular purpose or purposes, no action under this section shall have the effect of requiring or permitting the production of, or the provision of access to, the information for a purpose other than one permitted in accordance with the undertaking and the information shall not, without the consent of the other state, be further disclosed or used otherwise than in accordance with the undertaking.”.

S.1

2.—Section 32 of the Criminal Justice Act, 1994, is hereby amended—

Amendment of section 32 of Criminal Justice Act, 1994.

(a) by the insertion, in subsection (9), after “money laundering” of “or any other offence”, and

(b) by the insertion after subsection (10) of the following subsection:

“(10A) In any regulations made under subsection (10) (a) prescribing a person or body to be a designated body, the Minister may, notwithstanding any other provision of this Act, apply to that person or body such exceptions in relation to the obligations of designated bodies under this Act as the Minister considers appropriate.”.

3.—Section 57 of the Criminal Justice Act, 1994, is hereby amended by the insertion after subsection (1) of the following subsection:

Amendment of section 57 of Criminal Justice Act, 1994.

“(1A) Information reported to the Garda Síochána under this section may be used in an investigation into an offence under section 31 or 32 of this Act or any other offence.”.

4.—Section 64 of the Criminal Justice Act, 1994, is hereby amended by the substitution in subsection (2) of “persons” for “members of the Garda Síochána”.

Amendment of section 64 of Criminal Justice Act, 1994.

5.—Section 184 of the Income Tax Act, 1967, is hereby amended by the insertion of the following subsection after subsection (2):

Amendment of section 184 (assessment in absence of return) of Income Tax Act, 1967.

“(3) In this section, ‘information’ includes information received from a member of the Garda Síochána:

Provided that, where an assessment raised under this section is based, in whole or in part, or directly or indirectly, on information received from a member of the Garda Síochána, the said member’s source of the said information shall not, without the express permission in writing of a member of the Garda Síochána not below the rank of Chief Superintendent, be revealed in any correspondence or communication in relation to the assessment or on the hearing or rehearing of an appeal against the assessment.”.

[No. 25.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [1996.]

Amendment of section 144 (assessment of corporation tax) of Corporation Tax Act, 1976.

6.—Section 144 of the Corporation Tax Act, 1976, is hereby amended by the substitution of the following subsection for subsection (4):

“(4) (a) If—

- (i) a company makes default in the delivery of a statement in respect of corporation tax, or
- (ii) the inspector is not satisfied with a statement which has been delivered, or has received any information as to its insufficiency,

the inspector shall make an assessment on the company concerned in such sum as, according to the best of the inspector’s judgment, ought to be charged on that company.

(b) In this subsection, ‘information’ includes information received from a member of the Garda Síochána:

Provided that, where an assessment raised under this section is based, in whole or in part, or directly or indirectly, on information received from a member of the Garda Síochána, the said member’s source of the said information shall not, without the express permission in writing of a member of the Garda Síochána not below the rank of Chief Superintendent, be revealed in any correspondence or communication in relation to the assessment or on the hearing or rehearing of an appeal against the assessment.”.

Amendment of section 12 (assessment of duty by Commissioners) of Stamp Act, 1891.

7.—Section 12 of the Stamp Act, 1891, is hereby amended—

(a) in subsection (1A) (inserted by the Finance Act, 1991), by the insertion of “(including information received from a member of the Garda Síochána)” after “information”, and

(b) in subsection (6), by the insertion of the following:

“(d) Where an assessment raised under this section is based, in whole or in part, or directly or indirectly, on information received from a member of the Garda Síochána, the said member’s source of the said information shall not, without the express permission in writing of a member of the Garda Síochána not below the rank of Chief Superintendent, be revealed in any correspondence or communication in relation to the assessment or on the hearing or rehearing of an appeal against the assessment.”.

Amendment of section 39 (assessment of tax) of Capital Acquisitions Tax Act, 1976.

8.—Section 39 of the Capital Acquisitions Tax Act, 1976, is hereby amended by the substitution of the following subsection for subsection (7):

“(7) The Commissioners, in making any assessment, correcting assessment or additional assessment, otherwise than from a return or an additional return which is satisfactory to them, shall make an assessment of such amount of tax as, to the best of their knowledge, information (including information

[1996.] *Disclosure of Certain Information* [No. 25.]  
*for Taxation and Other Purposes*  
Act, 1996.

received from a member of the Garda Síochána) and belief, S.8 ought to be charged, levied and paid:

Provided that, where an assessment raised under this section is based, in whole or in part, or directly or indirectly, on information received from a member of the Garda Síochána, the said member's source of the said information shall not, without the express permission in writing of a member of the Garda Síochána not below the rank of Chief Superintendent, be revealed in any correspondence or communication in relation to the assessment or on the hearing or rehearing of an appeal against the assessment.”.

9.—Section 104 of the Finance Act, 1983, is hereby amended by the substitution of the following subsection for subsection (2):

Amendment of section 104 (assessment and payment of tax) of Finance Act, 1983.

“(2) In any case in which—

- (a) a return under section 103 (1) is not delivered by an assessable person to the Commissioners on or before the 1st day of October immediately following the relevant valuation date, or
- (b) a return under section 103 (2) is not delivered by a person within the time specified, or
- (c) the Commissioners are dissatisfied with any return made under section 103 (1) or section 103 (2),

the Commissioners may make an assessment of tax payable upon the net market value of the relevant residential property, or any part thereof, of the person on the relevant valuation date of such amount or such further amount, as, to the best of their knowledge, information (including information received from a member of the Garda Síochána) and belief, ought to be charged, levied and paid and for this purpose the Commissioners may make such estimate of the market value of any property on that valuation date as they consider necessary:

Provided that:

- (i) the Commissioners may withdraw an assessment made under this subsection and make an assessment of the amount of tax payable on the basis of a return which, in their opinion, represents reasonable compliance with their requirements and which is delivered to the Commissioners within 30 days after the date of the assessment made by the Commissioners pursuant to this subsection;
- (ii) where an assessment raised under this section is based, in whole or in part, or directly or indirectly, on information received from a member of the Garda Síochána, the said member's source of the said information shall not, without the express permission in writing of a member of the Garda Síochána not below the rank of Chief Superintendent, be revealed in any correspondence or communication in relation to the assessment or on the hearing or rehearing of an appeal against the assessment.”.

[No. 25.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [1996.]

Amendment of section 18 (information to be furnished by financial institutions) of Finance Act, 1983.

**10.**—Section 18 of the Finance Act, 1983, is hereby amended by the insertion of the following subsection after subsection (4):

“(4A) (a) Where—

- (i) a copy of any affidavit and exhibits grounding an application under subsection (2) or (4) and any order made under subsection (3) or (4) are to be made available to any of the persons referred to in subsection (2) or any of those persons’ solicitor, or to the financial institution, as the case may be, and
- (ii) the judge is satisfied on the hearing of the application that there are reasonable grounds in the public interest that such copy of an affidavit, exhibits or order, as the case may be, should not include the name or address of the authorised officer,

such copy, copies or order shall not include the said name or address.

- (b) If, upon any application to the judge to vary or discharge an order made under the provisions of this section, it is desired to cross-examine the deponent of any affidavit filed by or on behalf of the authorised officer and the judge is satisfied that there are reasonable grounds in the public interest to so order, the judge shall order either or both of the following:
  - (i) that the name and address of the authorised officer shall not be disclosed in court, and
  - (ii) that such cross-examination shall only take place in the sight and hearing of the judge and in the hearing only of all other persons present at such cross-examination.”.

Amendment of section 19 (chargeability of certain profits or gains) of Finance Act, 1983.

**11.**—Section 19 of the Finance Act, 1983, is hereby amended by the substitution of the following subsection for subsection (2):

“(2) Notwithstanding anything in the Tax Acts, any profits or gains which are charged to tax by virtue of subsection (1) or which are charged to tax by virtue of or following any investigation by any body (hereafter in this subsection referred to as ‘the body’) established by or under statute or by the Government, the purpose or one of the principal purposes of which is—

- (a) the identification of the assets of persons which derive or are suspected to derive, directly or indirectly, from criminal activity,
- (b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and

[1996.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [No. 25.]

- (c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b), S.11

shall be charged under Case IV of Schedule D and shall be described in the assessment to tax concerned as ‘miscellaneous income’, and in respect of such profits and gains so assessed—

- (i) the assessment—

(I) may be made solely in the name of the body,

and

(II) shall not be discharged by the Appeal Commissioners or by a court by reason only of the fact that the income should, apart from this section, have been described in some other manner or by reason only of the fact that the profits or gains arose wholly or partly from an unknown or unlawful source or activity,

and

- (ii) (I) the tax charged in the assessment may be demanded solely in the name of the body,

and

(II) on payment to it of the tax so demanded, the body shall issue a receipt in its name and shall forthwith—

(A) lodge the tax paid to the General Account of the Revenue Commissioners in the Central Bank of Ireland, and

(B) transmit to the Collector-General particulars of the tax assessed and payment received in respect thereof.”.

**12.**—The Finance Act, 1983, is hereby amended by the insertion of the following section after section 19: Anonymity.

“19A.—(1) In this section—

‘authorised officer’ means an officer of the Revenue Commissioners nominated by them to be a member of the staff of the body;

‘the body’ has the same meaning as in section 19;

‘proceedings’ includes any hearing before the Appeal Commissioners (within the meaning of the Revenue Acts);

‘the Revenue Acts’ means the Acts within the meaning of section 94 of this Act together with Chapter IV of Part II of the Finance Act, 1992, and any instruments made thereunder and any instruments made under any other enactment and relating to tax;

[No. 25.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [1996.]

S.12

'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

(2) Notwithstanding any requirement made by or under any enactment or any other requirement in administrative and operational procedures, including internal procedures, all reasonable care shall be taken to ensure that the identity of an authorised officer shall not be revealed.

(3) In particular and without prejudice to the generality of subsection (2)—

(a) when exercising or performing his or her powers or duties under the Revenue Acts in pursuance of the functions of the body, an authorised officer shall—

(i) not be required to produce or show any written authority or warrant of appointment under the Revenue Acts when exercising or performing his or her powers or duties under those Acts, notwithstanding any provision to the contrary in any of those Acts, and

(ii) be accompanied by a member of the Garda Síochána who shall, on request, by a person affected identify himself or herself as a member of the Garda Síochána and shall state that he or she is accompanied by an authorised officer,

(b) where, in pursuance of the functions of the body, an authorised officer exercises or performs in writing any of his or her powers or duties under the Revenue Acts or any provisions of any other enactment, whenever passed, which relate to Revenue, such exercise or performance of his or her powers or duties shall be done in the name of the body and not in the name of the individual authorised officer involved, notwithstanding any provision to the contrary in any of those enactments,

(c) in any proceedings arising out of the exercise or performance, in pursuance of the functions of the body, of powers or duties by an authorised officer, any documents relating to such proceedings shall not reveal the identity of any authorised officer, notwithstanding any requirements in any provision to the contrary, and in any proceedings the identity of such officer other than as an authorised officer shall not be revealed other than to the judge or the Appeal Commissioner, as the case may be, hearing the case,

(d) where, in pursuance of the functions of the body, an authorised officer is required, in any proceedings, to give evidence and the judge or the Appeal Commissioner, as the case may be, is satisfied that there are reasonable grounds in the public interest to direct that evidence to be given by such authorised officer should be given in the hearing and not in the sight of any person, he or she may so direct.”



[1996.] *Disclosure of Certain Information [No. 25.]  
for Taxation and Other Purposes  
Act, 1996.*

**13.**—For the purposes of the Bankers’ Books Evidence Act, 1879, “bank” and “banker” in section 9 (1) (inserted by section 2 of the Bankers’ Books Evidence (Amendment) Act, 1959) of the said Bankers’ Books Evidence Act, 1879, shall include the following: Meaning of “bank” and “banker” in Bankers’ Books Evidence Act, 1879.

- (a) any credit institution not being a credit institution authorised by the Central Bank of Ireland which provides services in the State pursuant to Council Directive 89/646/EEC<sup>(1)</sup> of 15.12.1989;
- (b) a society which is registered as a credit union under the Industrial and Provident Societies Acts, 1893 to 1978, by virtue of the Credit Union Act, 1966;
- (c) a member firm for the purposes of the Stock Exchange Act, 1995;
- (d) an investment business firm for the purposes of the Investment Intermediaries Act, 1995;
- (e) a person authorised to carry on moneybroking business under section 110 of the Central Bank Act, 1989;
- (f) a person providing foreign currency exchange services;
- (g) a life assurance undertaking which is the holder of an authorisation under the Insurance Acts, 1909 to 1990, or under regulations made under the European Communities Act, 1972, or which is the holder of an authorisation from another Member State of the European Communities and operating on an establishment basis in the State;
- (h) a person providing a service in financial futures and options exchanges within the meaning of section 97 of the Central Bank Act, 1989; and
- (i) any person or body prescribed by the Minister for Finance, following consultation with the Minister for Justice, by order under this section.

**14.**—Section 7A (inserted by section 131 of the Central Bank Act, 1989) of the Bankers’ Books Evidence Act, 1879, is hereby amended— Amendment of section 7A of Bankers’ Books Evidence Act, 1879.

- (a) by renumbering that provision as subsection (1) of section 7A,
- (b) in the said subsection (1), by the insertion after “banker’s book” of “, or inspect and take copies of any documentation associated with or relating to an entry in such book,” and
- (c) by the insertion of the following subsection after subsection (1):
  - “(2) (a) Notwithstanding section 10, references to a judge in subsection (1) of this section shall include a reference to a judge of the Circuit Court or of the District Court.

<sup>(1)</sup>OJ No. L 386 of 30.12.1989. p.1.

[No. 25.] *Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.* [1996.]

S.14

(b) In subsection (1) of this section “documentation” includes information kept on microfilm, magnetic tape or in any non-legible form (by the use of electronics or otherwise) which is capable of being reproduced in a permanent legible form.”.

Short title.

**15.**—This Act may be cited as the Disclosure of Certain Information for Taxation and Other Purposes Act, 1996.

---

ACTS REFERRED TO

Bankers' Books Evidence Act, 1879	42 & 43 Vict., c. 11
Bankers' Books Evidence (Amendment) Act, 1959	1959, No. 21
Capital Acquisitions Tax Act, 1976	1976, No. 8
Central Bank Act, 1989	1989, No. 16
Corporation Tax Act, 1976	1976, No. 7
Credit Union Act, 1966	1966, No. 19
Criminal Justice Act, 1994	1994, No. 15
European Communities Act, 1972	1972, No. 27
Finance Act, 1983	1983, No. 15
Finance Act, 1991	1991, No. 13
Finance Act, 1992	1992, No. 9
Income Tax Act, 1967	1967, No. 6
Industrial and Provident Societies Acts, 1893 to 1978	
Insurance Acts, 1909 to 1990	
Investment Intermediaries Act, 1995	1995, No. 11
Stamp Act, 1891	54 & 55 Vict., c. 39
Stock Exchange Act, 1995	1995, No. 9