



STATUTORY INSTRUMENTS.

S.I. No. 188 of 2017



EUROPEAN UNION (FINANCIAL CHECKS) REGULATIONS 2017

EUROPEAN UNION (FINANCIAL CHECKS) REGULATIONS 2017

I, PASCHAL DONOHOE, Minister for Public Expenditure and Reform, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Financial Checks) Regulations 2017.

Definitions

2. (1) In these Regulations—

“authorised officer” means a person appointed as an authorised officer under Regulation 3;

“EU Regulation” means Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013¹;

“records” includes any book, document or other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

“European Structural & Investment Funds” means any resources disbursed from the European Union’s Structural & Investment Funds for the purpose of supporting social and economic development.

(2) A word or expression which is used in these Regulations and which is also used in the EU Regulation, unless the context otherwise requires, has the same meaning in these Regulations as it has in the EU Regulation.

Appointment of authorised officers

3. (1) For the purpose of ensuring compliance with the EU Regulation—

(a) the Minister for Public Expenditure and Reform, or

(b) a Minister of the Government, in relation to any matter for which he or she has responsibility,

may appoint such and so many persons, as he or she thinks fit, to be authorised officers.

¹OJ No. L 347, 20.12.2013, p. 320

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th May, 2017.

(2) An authorised officer appointed under paragraph (1) shall be furnished with a warrant on his or her appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if required, by any person affected, produce the warrant to that person.

Functions of authorised officers

4. (1) An authorised officer may, for the purpose of ensuring compliance with the EU Regulation—

- (a) at all reasonable times enter any place (other than a private dwelling) at which the officer has reasonable grounds to believe records are kept relating to assistance from the European Structural & Investment Funds or any activities relating to such assistance,
- (b) require the owner or any person employed at the place referred to in subparagraph (a) or in charge thereof to—
 - (i) give to the authorised officer his or her name, home address and occupation, and
 - (ii) provide to him or her any records which are in the person's power or control, and to give to the officer such information as he or she may reasonably require in regard to any entries in such records, and where such records are kept in a non-legible form to reproduce them in a permanent legible form,
- (c) at such place referred to in subparagraph (a), inspect and take copies of or extracts from records (including in the case of information in non-legible form a copy or extract from such information in permanent legible form),
- (d) inspect and copy or extract information from any data (within the meaning of the Data Protection Acts of 1988 and 2003) found or provided to the officer under this Regulation,
- (e) require any person by whom or on whose behalf data equipment is or has been used on the premises or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use in relation to its use,
- (f) remove and retain any records for such period as may be reasonable for further examination,
- (g) secure for later inspection the place or part of any place in which such records are kept or there are reasonable grounds for believing such records are kept,
- (h) summon, at any reasonable time, any other person concerned in relation to assistance received from the European Structural & Investment Funds or any activities relating to such assistance to give to

the officer any information which the officer may reasonably require concerning such assistance or activity or to produce to the officer any records which are in that person's power or control.

(2) An authorised officer may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any power conferred on an authorised officer under this Regulation.

Offence

5. (1) A person who—

- (a) obstructs or interferes with an authorised officer in the exercise of the officer's power under Regulation 4,
- (b) fails to comply with a request from an authorised officer under that Regulation, or
- (c) makes a statement to such officer which the person knows is false or misleading,

commits an offence and is liable on summary conviction to a Class A fine.

(2) Where an offence is committed under this Regulation by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) An offence under this Regulation may be prosecuted by a Minister of the Government.

Revocation

6. (1) Subject to paragraph (2), the European Communities (Financial Checks) Regulations 2008 (S. I. No. 264 of 2008) are revoked.

(2) Where any criminal proceedings for an offence under Regulation 5 of the European Communities (Financial Checks) Regulations 2008 (S. I. No. 264 of 2008)—

- (a) were pending immediately before the making of these Regulations, or
- (b) could have been brought under that Regulation immediately before the making of these Regulations,

the proceedings may be prosecuted and disposed of, or may be brought, prosecuted and disposed of, under that Regulation as if those Regulations have not been revoked.



GIVEN under the Official Seal of the Minister for Public Expenditure and Reform,
5 May 2017.

PASCHAL DONOHOE,
Minister for Public Expenditure and Reform.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54



Wt. (B32764). 285. 5/17. Essentra. Gr 30-15.