

Criminal Justice Act 2011

Reporting Implications for Members in Practice and in Business

February 2013

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CRIMINAL JUSTICE ACT 2011

REPORTING IMPLICATIONS FOR MEMBERS IN PRACTICE AND IN BUSINESS

Introduction

The Criminal Justice Act 2011 ('the Act' / 'the 2011 Act') was signed into law by the Minister for Justice and Equality on 2 August 2011 and came into effect on 9 August 2011. The legislation contains a number of different provisions, including:

- The introduction of an offence under section 19 for a person, without reasonable excuse, not to report to Gardaí information which he knows or believes *might be of material assistance* in preventing the commission of 'relevant offences' or amongst other things securing the conviction of any persons for those relevant offences;
- Protection under section 20 for employees from penalisation for making disclosures under the Act;
- The ability of the Gardaí to suspend detention periods; and
- The ability of the Gardaí to call on a District Court judge to compel the production of documentation or provision of other information in connection with the investigation of a relevant offence.

This information sheet focusses on the implications for all members, whether employed in business, in practice or not currently working, arising from the reporting obligation under Section 19 of the Act and the protection for employees from penalisation for disclosing information relating to relevant offences under section 20 of the Act. It may also have relevance to the organisations in which members are employed.

Scope of the reporting obligation

Section 19 reads as follows:

(1) **A person** shall be guilty of an offence if he or she has information which he or she knows or believes *might be of material assistance* in—

(a) preventing the commission by any other person of a relevant offence, or

(b) securing the apprehension, prosecution or conviction of any other person for a relevant offence,

and fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

To whom does the reporting obligation apply?

Section 19 above refers to “a person” but the Act does not provide a definition to refine the category of persons intended to be subject to the reporting obligation. Commentaries on the Act in the press and from legal firms have suggested that, based on the natural meaning of the word, all persons in any circumstance would be subject to the requirement¹.

Section 18 of the Interpretation Act 2005 defines ‘person’ as follows:

“Person” shall be read as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual, and the subsequent use of any pronoun in place of a further use of “person” shall be read accordingly.

Thus, it is reasonable to conclude that individual members (whether practising or otherwise in business), practising firms (whether in partnership or corporate structures) and other entities in which members are involved as principals, directors or shareholders are all subject to the reporting obligation under Section 19.

¹ See *Litigation & Dispute Resolution Briefing – Criminal Justice Act 2011*, September 2011 by Arthur Cox at: http://www.arthurcox.com/uploadedFiles/Publications/Publication_List/Arthur%20Cox%20-%20The%20Criminal%20Justice%20Act%202011,%20September%202011.pdf and *Law means we are all informers* by Michael McDowell, Senior Counsel, published in the Irish Independent <http://www.independent.ie/opinion/analysis/law-means-we-are-all-informers-2853784.html>

For convenience, the remainder of this document refers to the obligations of members under the Act; however, it should be emphasised that the obligations apply to all persons, not just members of accountancy bodies.

What are the suspected offences to be reported?

The offences are set out in Section 3 and Schedule 1 to the Act and, broadly speaking, the offences can be grouped as follows:

- Offences relating to banking, investment of funds and other financial activities;
- Company law offences;
- Money-laundering and terrorist financing offences;
- Theft and fraud offences;
- Bribery and corruption offences;
- Consumer protection offences; and
- Cybercrime offences.

Under section 3(2) of the Act, the Minister for Justice and Equality can specify, by ministerial order, any arrestable offence under the above areas (as well as an offence in relation to the raising and collection of taxes and duties) as a 'relevant offence'. Up to the date of publication of this information sheet, no such ministerial order has been issued. See Appendix 1 to this memorandum for further information on the 'relevant offences'.

What constitutes information which "might be of material assistance"?

The Act does not define the term *material assistance*. The legislation requires that where a person knows or believes the information they have '*might be*' of *material assistance* to the Gardaí, then a report should be made. Thus, absolute certainty or even likelihood that the information the member holds *might be of material assistance* is not required to trigger the reporting obligation – a belief that this is the case will suffice. The test for whether information is of *material assistance* is a subjective one, in other words, the question is whether the person in possession of the information himself knew or believed that the information might be of material assistance to the Gardaí. International Standard of Auditing (ISA) (UK and Ireland) 250B '*The auditor's right and duty to report to regulators in the financial sector*' defines *material significance* as follows:

"Material significance: the term 'material significance' requires interpretation in the context of the specific legislation applicable to the regulated entity. A matter or group of matters is normally of material significance to a regulator's functions when, due either to its nature or its potential financial impact, it is likely of itself to require investigation by the regulator. Further guidance on the interpretation of the term in the context of specific legislation is contained in Practice Notes dealing with the rights and duties of auditors of regulated entities to report direct to regulators."

A member could believe, based upon his/her own knowledge, that the Gardaí already have the information as a result of a report having been submitted by another person, such as a work colleague or senior management in an organisation, or indeed by the member in question on foot of other third party reporting obligations, that the information the individual member holds would not be of *material assistance* to the Gardaí. In order to genuinely hold such a belief, it is likely that the Members would need to know or have

factual evidence that the information has in fact been reported to the Gardaí in totality.

Members should also be aware that where information is acquired subsequent to a report having been made, and this information *might be of material assistance* to the Gardaí, an additional reporting obligation under this Act could be triggered.

When should the report be made?

The 2011 Act does not provide a time period within which the information must be disclosed but states that it must be provided to Gardaí “as soon as practicable”. The Act does not define this term. It would, however, be reasonable to take into account guidance regarding the timing of reports under other reporting duties, such that it would be reasonable for members to take sufficient time in determining whether the matter fits the reporting criteria and as such a reporting obligation exists, in addition to the member’s judgement as to the gravity of the matter at hand and the extent of harm that may be done. Members may wish to refer, for example, to the guidance on the timing of a money laundering report under the Criminal Justice (Money Laundering and Terrorist Financing Offences) Act 2010, as contained in chapter 7 of the CCAB-I Guidance *Anti-Money Laundering Guidance - Republic of Ireland*².

Does information obtained prior to enactment of the Act have to be reported?

The Act does not confine the reporting obligation to circumstances which take place post enactment. Members should note that, where they did not otherwise have a reporting obligation, or failed to report, under other legislation prior to the enactment of this Act on 9 August 2011, any information they hold on that enactment date which *might be of material assistance* to the Gardaí with regard to ‘relevant offences’ becomes reportable, and should be reported ‘as soon as practicable’.

Are there any circumstances where a person is absolved of the reporting requirement?

Section 19 provides that an offence is not committed where a person has a *reasonable excuse* for failing to provide information to the Gardaí, but Section 19 does not elaborate on the circumstances under which a person would have a reasonable excuse not to disclose the information otherwise required by the Act.

The meaning of the term *reasonable excuse* may be clarified by case law if and when prosecutions are brought under the Act, but members would be advised to be cautious in seeking to apply this reporting exemption and to obtain independent legal advice on the matter.

² See http://www2.accaglobal.com/ireland/members/technical_library/

Overlapping reporting responsibilities for members in practice and members working in other designated persons under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

Members will be aware of the other reporting obligations to which accountants are subject under various legislative provisions and that there are different categories of person subject to those reporting obligations, depending on the legislation in question.

- Section 194 of the *Companies Act 1990* - Auditor reporting of suspected company law indictable offences to the Office of the Director of Corporate Enforcement ('ODCE').
- Section 1079 of the *Taxes Consolidation Act 1997* - Auditors obligation to report taxation offences.
- Section 59 of the *Criminal Justice (Theft and Fraud Offences) Act 2001* ('2001 Act') - 'Relevant persons' reporting to the Gardaí offences under the 2001 Act.
- Section 42 of the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* ('2010 Act') - 'designated persons' reporting Money Laundering and Terrorist Financing offences to the Gardaí and the Revenue Commissioners.

Detailed guidance on these obligations is available to members in the following publications and memos:

- CCAB-I memo *Section 59 Criminal justice (Theft and Fraud offences) Act 2001*;
- CCAB-I (Revised) *Anti-Money Laundering Guidance - Republic of Ireland*;
- APB Bulletin 2007/02 *The duty of auditors in the Republic of Ireland to report to the director of corporate enforcement*;
- Information sheet *Reports by Auditors under Section 194 (as amended) of the Companies Act*;
- Information sheet *Reporting Company Law Offences: Information for Auditors*.

The documents listed above are available on the websites of the accountancy bodies³.

Members involved in different sectors can avail of additional sector specific guidance where available, such as the AML guidance produced by the Financial Services Industry – see: <http://www.finance.gov.ie/documents/guidelines/Criminaljustice2012.pdf>.

A difficulty with the various reporting obligations, which has been highlighted to the Department of Justice and Equality many times in the past, is that there are different 'reporting thresholds' associated with the different reporting obligations:

- Reports under Section 59 of the 2001 Act are made where there is an 'indication' from information or documents that an offence may have been committed under the Act;
- Reports under Section 42 of the 2010 Act are made where the designated person has knowledge, suspicion or reasonable grounds for suspicion that a money laundering offence has been or is being committed;
- Reports under Section 194 of the 1990 Act are made on the basis that the auditor has reasonable grounds for believing that the company, or an officer or an agent of the company, has committed an indictable offence under the Companies Acts

(other than an indictable offence under section 125(2) or 127(12) of the Principal Act);

- Reports under Section 1079 are made on the basis that the auditor becomes aware that a taxation offence has been, or is being committed.

The 2011 Act introduces yet another different threshold, namely where a person knows or believes that information in his or her possession *might be of material assistance* to the Gardaí in preventing a relevant offence or in apprehending prosecuting or convicting another person for a relevant offence.

As mentioned earlier, it may be the case, in certain circumstances, that a member in practice may have already made a report in accordance with Section 59 of the 2001 Act or Section 42 of the 2010 Act and this report could meet their obligations also under the 2011 Act. Similarly, a member in business, individually or through his employer which is a 'designated person', may have reported under Section 42. Under both the 2001 and 2010 Acts, reports must be sent to the Gardaí⁴, which is also the requirement under the 2011 Act. The 2011 Act calls for the reporting of information which *might be of material assistance* to the Gardaí – if there is no new information to be reported under Section 19 of the 2011 Act, then the member might not consider the report to be of *material assistance*, as the Gardaí have already received the pertinent details of the circumstances in question. The question of whether information is of *material assistance* is subjectively assessed, from the viewpoint of the person in possession of the information.

Knowledge or information gathered or received subsequent to the submission of such report(s) would be reportable under Section 19 of the 2011 Act if the person in possession of the information knows or believes it *might be of material assistance* to the Gardaí. An example might be where money laundering report was previously submitted, but at that time the identity of alleged offender, or the whereabouts of the proceeds, was not known. Should such information subsequently become known, this could constitute information that a member knows or believes *might be of material assistance* to the Gardaí and, in that case, the member would be under a duty to report under Section 19.

As discussed above, auditors report to the ODCE where information that comes into their possession in the course of, and by virtue of, carrying out the audit of a company leads them to form the opinion that there are reasonable grounds to believe that an indictable offence under the Companies Acts has been committed.

As these reports are addressed to the ODCE and not to the Gardaí, members would not fulfil their obligations under the 2011 Act by only reporting under Section 194 of the 1990 Act as amended.

Section 49 of the 2010 Act provides that it is an offence to make any disclosure which "is likely to prejudice an investigation that may be conducted following the making of the [AML] report". No similar offence exists under the 2011 Act. Sections 50 to 52 of the 2010 Act set out various defences against the allegation of prejudicing an investigation under Section 49, including that it is a defence to prove that "the disclosure was for the purpose of the detection, investigation or prosecution of an offence (whether or not in the

⁴ Under the 2010 Act a report is also sent to the Revenue Commissioners.

State)”. A disclosure to the Gardaí in accordance with another legislative requirement (e.g. Section 19 of the 2011 Act) would come within that defence.

Thus, where a member makes a disclosure under Section 19 of the 2011 Act to the Gardaí, they will not make a disclosure likely to prejudice an investigation under AML legislation. However, such disclosure would be likely to prejudice an investigation if made to a person that the member considered to be implicated in the AML offence.

Whistleblower protection / offence of making wilfully false reports or statements

Section 20 of the 2011 Act provides protection for employees who make the required disclosure from being penalised for making the disclosure or giving evidence in any proceedings relating to a relevant offence, or for giving notice of the intention to do so. Employees who are wrongly dismissed following the reporting of information to the Gardaí are entitled to bring a claim to a rights commissioner or alternatively to seek redress under the Unfair Dismissals Acts 1997 to 2007 or at common law for wrongful dismissal.

The Act does not, however, give protection to people who are not employees, such as non-executive directors, advisers or sub-contractors. Nor does it give persons reporting under Section 19 immunity from prosecution.

Further, there are no provisions guaranteeing anonymity for the person making the disclosure.

Section 21(1) establishes that an employee who makes a disclosure knowing it to be false or being reckless as to whether it is false shall be guilty of an offence and shall be liable on summary conviction or on indictment to a fine and/or imprisonment. This offence is not extended to other persons who are not employees.

Section 21(2) establishes an offence where persons who, “upon examination on oath or affirmation authorised under paragraph 2(7) of Schedule 2 ” wilfully make any statement, material for that purpose, which they know to be false or do not believe to be true, are also guilty of an offence. The oath or affirmation referred to relates to proceedings at the Labour Court to hear an appeal against the decision of a rights commissioner with regard to a complaint by an employee pursuant to Section 20.

Whistleblowing procedures in entities

The management bodies of entities may consider whether it would be useful / appropriate to introduce certain policies and procedures in light of the provisions of the Act. The following issues may come into consideration in this regard:

- Internal reporting procedures for circumstances which may give rise to a reporting obligation;
- Employee policies and procedures with regard to whistleblowing; and
- Training issues.

Entities subject to other reporting requirements, particularly AML reporting, may already have robust policies and procedures in place to deal with such reporting obligations. There are no provisions within the Act for internal reporting structures, nor is there provision, as there is in the 2010 Act, for employees to discharge their reporting duties by

reporting the matter in accordance with internal policies and procedures established for that purpose.

As discussed above, members would need to be sure that any internal reporting procedures deal with the matter at hand appropriately, make any necessary report and in a timely fashion (“as soon as is practicable”). Should members believe that the report has not in fact been made, or that there is undue delay by the entity, within the internal reporting structure, in processing the issue, then the member in such circumstances is not absolved by the Act from the reporting obligation and should make a report independently.

Given the lack of certainty mentioned earlier with regard to the overlap of the reporting obligation under this Act and the offence of ‘prejudicing an investigation’ under the 2010 Act, should management decide to establish internal reporting procedures, consideration may be given to including an alternative reporting procedure whereby a member of staff who suspects that the usual recipient of such reports may be implicated in the matter.

Management may also consider the need to establish/strengthen the entity’s employee policies and procedures to ensure that, as an employer, the entity does not commit an offence of penalising an employee who has reported under the Act. Such policies and procedures could include provisions about keeping the knowledge that a report has been made within senior management on a ‘need to know basis’ and confidential from other colleagues in the entity and other third parties.

The Act does not include any obligation for employers to train staff on the requirements of the Act. However, employers may consider the need to adapt their training procedures to provide their employees with training on their individual obligations under the Act and on the entity’s policies and procedures in this regard.

How to report?

The report under Section 19 of the Act is to be submitted to “a member of the Garda Síochána”. The report should contain the information which the person “knows or believes might be of material assistance in preventing the commission by any other person of a relevant offence, or securing the apprehension, prosecution or conviction of any other person for a relevant offence”.

No further requirements are contained within the Act as regards the addressee or format for such a report. In the absence of any specific requirements, members may consider it appropriate to submit their reports to the Garda Bureau of Fraud Investigation at:

Garda Bureau of Fraud Investigation
Harcourt Square
Harcourt Street
Dublin 2
Tel: +353 1 6663776
Fax: +353 1 6663798

Criminal Justice Act 2011 - Schedule 1

Relevant offences

'Relevant offences' giving rise to an obligation, as set out in section 19, to disclose information to the Gardaí are specified in Schedule 1 of the Criminal Justice Act 2011. The Schedule lists the legislative references to offences already established in Irish law prior to the Act coming into effect but does not contain the text of those references. In a number of cases, the legislative provisions referred to have been amended in later legislation; hence identifying the specific text of the offences that come within the Act's reporting obligation is not straight forward. The attached appendix provides a summary of key aspects of the offences listed to assist accountants in identifying circumstances in which a reporting obligation may arise. It is not, however intended as a comprehensive description of the various offences nor is it a substitute for reading the specific sections. It should not be construed as legal guidance and members should consider obtaining legal advice as appropriate to the specific circumstances.

<i>Reference</i>	<i>Principal characteristics of offence</i>
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OFFENCES RELATING TO BANKING, INVESTMENT OF FUNDS AND OTHER FINANCIAL ACTIVITIES	
1. An offence under section 58 of the Central Bank Act 1971 insofar as it relates to a contravention of section 17, 18, 23, 24 or 25 of that Act	<p>A requirement for a holder of a banking licence to keep certain books and records</p> <p>A holder of a banking licence must make certain returns to the Central Bank</p> <p>The requirement for a bank licence holder to maintain certain specified capital ratios</p> <p>The requirement to hold a deposit with the Central Bank by holders of bank licences in certain circumstances</p> <p>The maintenance of accounts in relation to clearances with the Central Bank in certain circumstances</p>
2. An offence under section 37(6) or 41(1) of the Insurance Act 1989	Relates to payment or receipt of excess commissions (inserted by Central Bank and Financial Services Authority of Ireland Act 2003)
3. An offence under section 20(4) or 24(4) of the Trustee Savings Banks Act 1989	<p>Disclosure of honorarium and loans to trustees of the savings bank in annual financial statements and reporting by the auditor of non-inclusion of the amount so paid in their audit report</p> <p>Keeping of books and records by Trustees</p>

<i>Reference</i>	<i>Principal characteristics of offence</i>
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OFFENCES RELATING TO BANKING, INVESTMENT OF FUNDS AND OTHER FINANCIAL ACTIVITIES (contd.)

4. An offence under section 11(3) or 13(5) of the Unit Trusts Act 1990	<p>Dealing with the surplus on the sale of units in a unit trust</p> <p>Profiting from own trading</p>
5. An offence under section 25(5) or 27(4), or subsection (7) or (8) of section 35, of the Investment Limited Partnerships Act 1994	<p>Failure to keep books and records and to provide them when requested by an authorised person</p> <p>Failure to provide the Central Bank with information when requested</p> <p>Failure to keep proper books and accounts which leads to uncertainty in an insolvency situation</p>
6. An offence under section 10(16), 19(1)(b), 30, 34, 35(4), 46(2), 54(6), 56(9), subsection (3), (5), (6) or (9) of section 52 or subsection (7) or (8) of section 79, of the Investment Intermediaries Act 1995	<p>Providing false information to the Central Bank in an application for authorisation under the Act</p> <p>Keeping of books and records</p> <p>Provision of receipts</p> <p>False statement to auditors</p> <p>Obstructing an enquiry by the Central Bank into certain transactions</p> <p>Not taking reasonable steps to ensure compliance with client money rules and the rules regarding keeping proper accounting records</p> <p>A professional body providing false information to the Central Bank in certain circumstances</p> <p>The keeping of books and records and client accounts</p> <p>Misappropriation of client money</p>

<i>Reference</i>	<i>Principal characteristics of offence</i>
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OFFENCES RELATING TO BANKING, INVESTMENT OF FUNDS AND OTHER FINANCIAL ACTIVITIES (contd.)

<p>7. An offence under section 12(2) of the Consumer Credit Act 1995 insofar as it relates to a contravention of subsection (1) or (3) of section 97, or section 101, 102 or 127 of that Act</p>	<p>Issuing written authorisation to agents of money lenders or acting without such authorisation</p> <p>The provision of a money lending agreement / contract</p> <p>Charging negotiation fees in respect of money lending</p> <p>Tying a mortgage borrower to taking another product from the mortgage lender as a condition of the lending</p>
<p>8. An offence under section 29(3), or subsection (7) or (8) of section 43 of the Investor Compensation Act 1998</p>	<p>Accepting investment orders for a firm after being told of the failure of that firm by the Central Bank</p> <p>False statement or omission or destruction of papers</p>
<p>9. An offence under section 14(3) or 15(2) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005</p>	<p>Repayment of funds by a UCITS in certain circumstances</p> <p>Making a personal profit out of USITS funds</p>
<p>10. An offence under section 5(2) of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007 insofar as it relates to—</p> <p>(a) a failure to discharge a duty to which a person is subject under Regulation 40(1) or 112(1) of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007), or</p>	<p>Retention of records and records of market transactions</p>

<i>Reference</i>	<i>Principal characteristics of offence</i>
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OFFENCES RELATING TO BANKING, INVESTMENT OF FUNDS AND OTHER FINANCIAL ACTIVITIES (contd.)

<p>10. (contd.)</p> <p>(b) a contravention of Regulation 19, 52, 159 or 187B of those Regulations</p>	<p>Knowingly or recklessly providing false information in relation to the authorisation process</p> <p>Misappropriation of client money</p> <p>A person who provides the Bank with information in purported compliance with a requirement of or under this Part, knowing the information to be false or misleading, commits an offence</p>
<p>11. An offence under Regulation 20(2), 22(4), 58(9), 59(8), 60(6), 62(4) or 76(1) of the European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006)</p>	<p>Having administrative and accounting procedures and internal control mechanisms.</p> <p>Maintenance of solvency requirements</p> <p>Non-compliance with certain directions of the Central Bank</p> <p>Failure to provide the Central Bank with a financial recovery plan in certain circumstances</p> <p>A Special Purpose Reinsurance Vehicle ('SPRV') failing to comply with the terms of its authorisation or rules</p> <p>Matters relating to the cessation of SPRVs</p> <p>Provision of false information</p>
<p>12. An offence under section 7 of the National Asset Management Agency Act 2009 insofar as it relates to a person other than a credit institution (within the meaning of that Act)</p>	<p>Breach of confidentiality for certain NAMA staff and officers</p> <p>Providing false or misleading information to NAMA</p>
<p>13. An offence under section 48 of the Central Bank Reform Act 2010</p>	<p>Providing false or misleading information to the Central Bank including provision by the holder of a controlled function</p>

<i>Reference</i>	<i>Principal characteristics of offence</i>
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COMPANY LAW OFFENCES	
<p>14. An offence under section 60(15), 295 or 297, or under paragraph (a), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), (o) or (p) of section 293 (1), of the Companies Act 1963</p>	<p>Giving of financial assistance by a company for the purchase of its own shares</p> <p>Frauds by officers of companies which have gone into liquidation, including fraudulently soliciting credit for a company, removing or gifting assets just prior to the liquidation of the company</p> <p>Carrying on of the business of a company with intent to defraud creditors</p> <p>Failure by an officer of a company to cooperate with and disclose fully and truly all relevant information to a liquidator and to deliver to the liquidator all property and books and records of a company and other offences by a directors relating to cooperation with the liquidator</p>
<p>15. An offence under any of the following provisions of the Companies (Amendment) Act 1986:</p> <p>(a) section 22(1)(a) (insofar as it relates to a failure to comply with section 5 or 16 of that Act),</p> <p>(b) section 22(2) (insofar as it relates to a failure to take all reasonable steps to secure compliance with the requirements of section 3 of that Act or a failure to comply with section 13 of that Act), or</p> <p>(c) section 22(3)</p>	<p>The requirement to prepare financial statements in accordance with the certain principles such as going concern, consistency and dis-aggregation</p> <p>Disclosure of subsidiaries and associates and related matters</p> <p>Where a director fails to take all reasonable steps to secure compliance with the requirements to prepare true and fair accounts and other matters and a directors report that includes certain specified disclosures</p> <p>False statement in accounts</p>

Reference	Principal characteristics of offence
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COMPANY LAW OFFENCES (contd.)	
16. An offence under section 197, 202(10), 242 or 243(1) of the Companies Act 1990	<p>False or misleading statements to auditors or failing to provide information to auditors within 2 days of request</p> <p>Not taking necessary steps to keep proper books</p> <p>False statement on any document required by the Companies Acts</p> <p>Destroying any company documentation with intent to defeat the law</p>
17. An offence under section 37(1) of the Companies (Amendment) (No. 2) Act 1999	False statement on any return, statement, balance sheet or document
18. An offence under section 48 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005	Untrue statements and omissions in prospectus
19. An offence under Regulation 5 or 6 of the Market Abuse (Directive 2003/6/EC) Regulations 2005 (S.I. No. 342 of 2005)	Insider trading or market manipulation offences
20. An offence under Regulation 76(4) of the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007)	Provision of false information

<i>Reference</i>	<i>Principal characteristics of offence</i>
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MONEY LAUNDERING AND TERRORIST FINANCING OFFENCES

<p>21. An offence under section 7, 8, 9, 10, 35, 37, 38, 42 or 49 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010</p>	<p>General money laundering offences:</p> <ul style="list-style-type: none"> • concealing or disguising the true nature, source, location, disposition, movement or ownership of criminal proceeds, i.e. property, derived, directly or indirectly, from any offence; or • converting, transferring, handling, acquiring, possessing or using such property; or • moving such property from, or bringing it into, the State ... <p>Failure to undertake customer due diligence including enhanced CDD for politically exposed persons</p> <p>Failure to report suspected money laundering as defined in the Act and the offence of “tipping off”</p>
<p>22. An offence under section 13 of the Criminal Justice (Terrorist Offences) Act 2005</p>	<p>Providing, collecting or receiving funds intending that they, or knowing that they will, be used:</p> <ul style="list-style-type: none"> • to carry out a terrorist act defined in legislation including any terrorist act that is intended to cause death or serious bodily injury to a civilian or other person not taking part in an armed conflict, the purpose of which is to intimidate a population or to compel a government or an international organisation to do or abstain from doing any act, of if they attempt to commit the offence; and/or • for the benefit or purposes of a terrorist group

<i>Reference</i>	<i>Principal characteristics of offence</i>
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THEFT AND FRAUD OFFENCES, etc	
<p>23. An offence under section 4, 6, 7, 9, 10, 11, 15, 17, 18, 25, 26, 27, 28, 29, 33, 34, 35, 36, 37, 38, 42, 43, 44, 45 or 51 of the Criminal Justice (Theft and Fraud Offences) Act 2001</p>	<p>Theft, making gain or causing loss by deception, obtaining services by deception</p> <p>Unlawful use of computer, false accounting, suppression of documents</p> <p>Possession of articles for use in theft and burglary when outside your own home</p> <p>Handling stolen property</p> <p>Possession of stolen property</p> <p>Forgery and false instrument with the intention of deception or copying same</p> <p>Custody of forged or false instruments</p> <p>Counterfeit currency offences</p> <p>Any fraud affecting the European Communities' financial interests, active or passive corruption</p> <p>Certain offences committed outside the state in relation to this Act</p> <p>Falsifies, conceals, destroys or otherwise disposes of a document or record which would be relevant to investigation under this Act</p>
<p>24. Conspiracy to defraud at common law</p>	<p>An agreement by two or more by dishonesty to deprive a person of something which is his or to which he is or would be entitled and an agreement by two or more by dishonesty to injure some proprietary right of his, suffices to constitute the offence of conspiracy to defraud</p>
<p>25. An offence under section 119 of the Registration of Title Act 1964</p>	<p>Fraud in respect to obtaining title to property</p>
<p>26. An offence under section 17 (of the Criminal Justice Act 2011)</p>	<p>Concealing facts disclosed by documents/records relevant to a Garda investigation (by falsifying, concealing, destroying or other means of disposal)</p>

<i>Reference</i>	<i>Principal characteristics of offence</i>
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BRIBERY AND CORRUPTION OFFENCES

27. An offence under section 1 of the Prevention of Corruption Act 1906	Corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do anything
28. An offence under section 7 or 8 of the Prevention of Corruption (Amendment) Act 2001	A corrupt act within or outside the state by a public official

CONSUMER PROTECTION OFFENCE

29. An offence under section 65 of the Consumer Protection Act 2007	Participating in, establishing, operating or promoting pyramid promotional schemes
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CRIMINAL DAMAGE TO PROPERTY OFFENCES

30. An offence under section 2, 3 or 4 of the Criminal Damage Act 1991 insofar as the offence relates to data (within the meaning of section 1 of that Act) or a storage medium in which such data are kept	Damage or threat to damage or possession of implements to be used to damage property
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