Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.



Number 1 *of* 1963

OFFICIAL SECRETS ACT 1963

REVISED

Updated to 15 April 2021

This Revised Act is an administrative consolidation of the *Official Secrets Act 1963*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Residential Tenancies Act 2021* (5/2021), enacted 30 March 2021, and all statutory instruments up to and including the *European Communities (Reception Conditions) (Amendment) (No. 2) Regulations 2021* (S.I. No. 178 of 2021), made 15 April 2021, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 1 *of* 1963

OFFICIAL SECRETS ACT 1963

REVISED

Updated to 15 April 2021

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Repeals.

PART II

OFFICIAL INFORMATION

4. Disclosure of official information.
5. Disclosure of confidential information in official contracts.
6. Retention of documents and articles.
7. Offences relating to official dies, seals and stamps. *(Repealed)*
8. Forgery, etc., of official documents. *(Repealed)*

PART III

COMMUNICATION OF INFORMATION TO THE PREJUDICE OF THE SAFETY OR PRESERVATION OF THE STATE

9. Acts contrary to safety or preservation of State.
10. Communication with foreign agents or members of unlawful organisations.
11. Harbouring offenders and failure to report offences.
12. Proceedings *in camera*.

PART IV

LEGAL PROCEEDINGS AND SUPPLEMENTARY PROVISIONS

13. Offences.

14. Restriction on prosecution.
15. Arrest without warrant. *(Repealed)*
16. Search warrants.
17. Obtaining information as to suspect offences.
18. Power to require the production of telegrams. *(Repealed)*

ACTS REFERRED TO

Official Secrets Acts, 1911	1911, c. 28
Official Secrets Acts, 1920	1920, c. 75
Offences Against the State Act, 1939	1939, No. 13
Police (Property) Act, 1897	1897, c. 30
Telegraph Act, 1869	1869, c. 73
Wireless Telegraphy Act, 1926	1926, No. 45

Number 1 *of* 1963.

OFFICIAL SECRETS ACT 1963

REVISED

Updated to 15 April 2021

AN ACT TO PROVIDE FOR THE SAFEGUARDING OF OFFICIAL INFORMATION. [5*th February*, 1963.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Annotations

Modifications (not altering text):

C1 Application of Act restricted by *Taxes Consolidation Act 1997* (39/1997), s. 508A(2), as inserted (6.09.2007) by *Finance Act 2007* (11/2007), s. 19(1)(g), S.I. No. 614 of 2007. Note that this section continues to have effect only in the limited circumstances specified in *Finance Act 2011* (6/2011), s. 33(2), as substituted (1.01.2012) by *Finance Act 2012* (9/2012), s. 26(2), commenced as per s. 141(8).

Reporting of relief.

508A.—(1) A person (being a qualifying company or the managers of a designated fund) shall, when required to do so by notice in writing by the Revenue Commissioners, furnish the Revenue Commissioners within such time as may be specified in the notice (not being less than 30 days) with such information, in relation to the relief provided for in this Part, as the Revenue Commissioners may reasonably require from that person for the purpose of the annual reports required in accordance with section 7.1 of the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises 2.

(2) Notwithstanding any obligation as to secrecy imposed on them by the Tax Acts or the Official Secrets Act 1963, the Revenue Commissioners may furnish the information obtained in accordance with subsection (1) to the person submitting the annual reports referred to in that subsection.

...

C2 Application of Act restricted by *Taxes Consolidation Act 1997* (39/1997), s. 1003A(12), as inserted (5.10.2006) by *Finance Act 2006* (6/2006), s. 122(1), S.I. No. 520 of 2006.

Payment of tax by means of donation of heritage property to an Irish heritage trust.

[1003A.— ...

(12) (a) The Revenue Commissioners shall as respects each year compile a list of the titles (if any), descriptions and values of the heritage properties (if any) in respect of which relief under this section has been given.

(b) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act 1963 , the Revenue Commissioners shall include in their annual report to

the Minister for Finance the list (if any) referred to in paragraph (a) for the year in respect of which the report is made.**]**

C3 Application of Act restricted (1.12.2005) by *Ombudsman (Defence Forces) Act 2004* (36/2004), s. 8(4), S.I. No. 568 of 2005.

Production of document, information, etc.

8.— ...

(4) Any obligation to maintain secrecy or other restriction on the disclosure of information obtained by or furnished to a Department of State or civil servant imposed by the Official Secrets Act 1963 shall not apply to a preliminary examination or an investigation by the Ombudsman under this Act and, subject to section 10(3), the State shall not be entitled in relation to any such preliminary examination or investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

C4 Application of Act restricted (6.04.1997) by *Taxes Consolidation Act 1997* (39/1997), ss. 1003(12), 1086(3), commenced as per s. 1098.

Payment of tax by means of donation of heritage items.

1003.— ...

(12) (a) The Revenue Commissioners shall as respects each year compile a list of the titles (if any), descriptions and values of the heritage items (if any) in respect of which relief under this section has been given.

(b) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act, 1963, the Revenue Commissioners shall include in their annual report to the Minister for Finance the list (if any) referred to in paragraph (a) for the year in respect of which the report is made.

...

Publication of names of tax defaulters.

1086.— ...

(3) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act, 1963—

(a) the Revenue Commissioners shall, before the expiration of 3 months from the end of each relevant period, cause each such list referred to in subsection (2) in relation to that period to be published in Iris Oifigiúil, and

[(b) the Revenue Commissioners may, at any time after each such list referred to in subsection (2) has been published as provided for in paragraph (a), cause any such list to be publicised or reproduced, or both, in whole or in part, in such manner, form or format as they consider appropriate.**]**

...

C5 Application of Act restricted (7.07.1983) by *Ombudsman Act 1980* (26/1980), s. 7(4), S.I. No. 424 of 1983.

Powers of the Ombudsman in respect of examinations and investigations.

7.— ...

(4) Any obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to a Department of State or civil servant imposed by the Official Secrets Act, 1963, shall not apply to an examination or investigation by the Ombudsman under this Act, and, subject to section 9(2) of this Act, the State shall not be entitled in relation to any such examination or investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

...

Editorial Notes:

E1 Previous affecting provision: application of Act restricted by *Taxes Consolidation Act 1997* (39/1997), s. 507(2), as substituted (31.12.2011) by *Finance Act 2011* (6/2011), s. 33(1)(a), commenced as per s. 33(2); and as further substituted (1.01.2012) by *Finance Act 2012* (9/2012), s. 26(2), commenced as per s. 141(8); subs. (2) further amended (1.01.2017) by *Finance Act 2016* (18/2016), s. 20(1)(b)(ii), commenced as per s. 59(8), removing reference to *Official Secrets Act 1963*.

E2 Previous affecting provision: application of Act extended (1.10.1998) by *Europol Act 1997* (38/1997), s. 9(2), S.I. No. 345 of 1998; repealed (1.02.2013) by *Europol Act 2012* (38/1997), s. 19, S.I. No. 15 of 2013.

E3 Previous affecting provision: application of Act restricted (2.06.1995) by *Finance Act 1995* (8/1995), s. 176(12)(b), commenced on enactment; repealed (30.11.1997 with retrospective effect from 6.04.1997) by *Taxes Consolidation Act 1997* (39/1997), s. 1098 and sch. 30, commenced as per subs. (2).

E4 Previous affecting provision: application of Act restricted (6.04.1983) by *Finance Act 1983* (15/1983), s. 23(3), commenced as per s. 122(6); substituted (10.05.1997) by *Finance Act 1997* (22/1997), s. 158(b), commenced on enactment; repealed (30.11.1997 with retrospective effect from 6.04.1997) by *Taxes Consolidation Act 1997* (39/1997), s. 1098 and sch. 30, commenced as per subs. (2).

PART I

PRELIMINARY

Short title.

1.—This Act may be cited as the Official Secrets Act, 1963.

Interpretation.

2.—(1) In this Act—

"document" includes part of a document;

"Minister" means a member of the Government;

"model" includes design, pattern or specimen;

"official document" includes a passport, official pass, permit, document of identity, certificate, licence or other similar document, whether or not completed or issued for use, and also includes an endorsement thereon or addition thereto;

"official information" means any secret official code word or password, and any sketch, plan, model, article, note, document or information which is secret or confidential or is expressed to be either and which is or has been in the possession, custody or control of a holder of a public office, or to which he has or had access, by virtue of his office, and includes information recorded by film or magnetic tape or by any other recording medium;

"public office" means an office or employment which is wholly remunerated out of the Central Fund or out of moneys provided by the Oireachtas, or an appointment to, or employment under, any commission, committee or tribunal set up by the Government or a Minister for the purposes of any inquiry, but does not include membership of either House of the Oireachtas.

"sketch" includes a photograph or other mode of representing any place or thing;

"State authority" means the Attorney General, the Comptroller and Auditor General, the Revenue Commissioners, the Commissioners of Public Works in Ireland or the Irish Land Commission.

(2) In this Act—

expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part and whether the sketch, plan, model, article, note, document or information itself or the substance, effect or description thereof only be communicated or received;

expressions referring to obtaining or retaining any sketch, plan, model, article, note or document include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note or document; and

expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission thereof.

(3) A certificate given by a Minister under his seal that any official code word or password or any sketch, plan, model, article, note, document or information specified or indicated in the certificate is secret or confidential shall be conclusive evidence of the fact so certified.

Annotations

Modifications (not altering text):

C6 Term 'official information' construed (1.12.2014) by *Criminal Justice (Mutual Assistance) Act 2008* (7/2008), s. 23(5) and s. 27(9), S.I. No. 541 of 2014.

Request to member state for interception.

23.—(1) This section applies where—

(a) for the purpose of a criminal investigation the Minister has given an authorisation of an interception under section 2 of the Act of 1993,

(b) the person specified in the authorisation is present in the State or a member state, and

(c) technical assistance from a member state is needed to intercept the telecommunications messages concerned.

(2) Where this section applies, the Minister may cause a request to be made to a competent authority in the member state for—

(a) the interception by that authority and immediate transmission to the Commissioner of the Garda Síochána or a member of the Garda Síochána nominated by him or her of telecommunications messages to or from the telecommunications address concerned, or

(b) the interception and recording of the messages and the transmission of the recording to the Commissioner or member.

...

(5) Information received in response to the request is deemed to be official information for the purposes of the Official Secrets Act 1963.

...

Notification by member state of interception.

27.—(1) This section applies where—

(a) the competent authority in a member state has authorised an interception,

(b) the telecommunications address of the person specified in the authorisation is being used on the territory of the State,

(c) technical assistance from the State is not required to carry out the interception, and

(d) the competent authority notifies the Minister accordingly in accordance with Article 20 of the 2000 Convention.

...

(6) The Minister may request the competent authority to supply a summary of the facts of the case and any further information necessary to enable him or her to decide whether an authorisation would be given under section 2 of the Act of 1993 in similar circumstances.

...

(9) Information provided under this section by the competent authority is deemed to be official information for the purposes of the Official Secrets Act 1963.

C7 Term 'official information' construed (1.02.2013) by *Europol Act 2012* (53/2012), s. 15(1), S.I. No. 15 of 2013.

15.—(1) Information which comes to the knowledge of any of the following persons in the performance of their functions as—

(a) the Director of Europol,

(b) a member of the Management Board of Europol,

(c) a Deputy Director of Europol,

(d) an employee of Europol,

(e) a person who, in respect of another Member State, performs the functions for that Member State, that a liaison officer performs in relation to the State, or

(f) another person under a particular obligation of discretion or confidentiality under this Act or the Council Decision,

shall be deemed to be official information within the meaning of the Official Secrets Act 1963 and the provisions of that Act shall apply accordingly to such information.

Editorial Notes:

E5 Previous affecting provision: application of Act extended (1.10.1998) by *Europol Act 1997* (38/1997), s. 9(2), S.I. No. 345 of 1998; repealed (1.02.2013) by *Europol Act 2012* (38/1997), s. 19, S.I. No. 15 of 2013.

Repeals.

3.—The Official Secrets Acts, 1911 and 1920, are hereby repealed.

PART II

OFFICIAL INFORMATION

Disclosure of official information.

4.—(1) A person shall not communicate any official information to any other person unless he is duly authorised to do so or does so in the course of and in accordance with his duties as the holder of a public office or when it is his duty in the interest of the State to communicate it.

(2) A person to whom *subsection (1)* applies shall take reasonable care to avoid any unlawful communication of such information.

(3) A person shall not obtain official information where he is aware or has reasonable grounds for believing that the communication of such information to him would be a contravention of *subsection (1)*.

(4) In this section "duly authorised" means authorised by a Minister or State authority or by some person authorised in that behalf by a Minister or State authority.

Annotations

Modifications (not altering text):

C8 Application of subs. (4) extended (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 51(1), commenced on enactment.

Amendment of Official Secrets Act 1963

51. (1) A person who is, or reasonably believes that he or she is, authorised by this Act to communicate official information to another person shall be deemed for the purposes of section 4 of the Official Secrets Act 1963 to be duly authorised to communicate that information.

...

C9 Person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 2014* (30/2014), ss. 35(1)(b), 41(1)(a) and sch. 3 part 1, commenced on enactment.

Information obtained in confidence

35.—(1) Subject to this section, a head shall refuse to grant an FOI request if— ...

(b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.

(2) Subsection (1) shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.

...

Enactments relating to non-disclosure of records.

41.—(1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in *column (3)* of *Part 1* or *2* of *Schedule 3* of an enactment specified in that Schedule), or

...

SCHEDULE 3

ENACTMENTS EXCLUDED FROM APPLICATION OF *Section 41*

PART I

STATUTES

...		
No. 1 of 1963	Official Secrets Act 1963	Sections 4, 5 and 9.
...	...	...

C10 Application of Act restricted (25.09.2013) by *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (33/2013), s. 74(2) and s. 89(2), S.I. No. 362 of 2013.

Saver and restriction of Official Secrets Act 1963.

74.— ...

(2) Sections 4 and 5 of the Official Secrets Act 1963 shall not apply to evidence or a document given to a committee pursuant to a direction.

...

Saver and restriction of Official Secrets Act 1963.

89.— ...

(2) Sections 4 and 5 of the Official Secrets Act 1963 shall not apply to evidence or a document given to a committee pursuant to a direction.

C11 Term "duly authorised" in subs. (4) construed (1.02.2013) by *Europol Act 2012* (53/2012), s. 15(2), S.I. No. 15 of 2013.

Application of Official Secrets Act 1963.

15.—(1) Information which comes to the knowledge of any of the following persons in the performance of their functions as—

(a) the Director of Europol,

(b) a member of the Management Board of Europol,

(c) a Deputy Director of Europol,

(d) an employee of Europol,

(e) a person who, in respect of another Member State, performs the functions for that Member State, that a liaison officer performs in relation to the State, or

(f) another person under a particular obligation of discretion or confidentiality under this Act or the Council Decision,

shall be deemed to be official information within the meaning of the Official Secrets Act 1963 and the provisions of that Act shall apply accordingly to such information.

(2) As respects information to which subsection (1) relates, "duly authorised" in section 4(4) of the Official Secrets Act 1963 shall be construed as including being authorised by the Director of Europol or, as the case may be, the Management Board of Europol.

C12 Application of Act restricted (26.04.2000) by *Commission To Inquire Into Child Abuse Act 2000* (7/2000), s. 32, commenced on enactment.

Restriction of Official Secrets Act, 1963.

32.—Sections 4 and 5 of the Official Secrets Act, 1963, do not apply to evidence given to the Commission or a Committee or a person conducting an examination pursuant to section 14(5) or to a document produced or sent to the Commission or a Committee or such a person as aforesaid.

Editorial Notes:

E6 Previous affecting provision: person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 1997* (13/1997), ss. 26(1)(b), 32(1)(a) and sch. 3 part 1, commenced on enactment; repealed (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 5 and sch. 4, commenced on enactment.

E7 Previous affecting provision: application of Act extended (1.10.1998) by *Europol Act 1997* (38/1997), s. 9(1), (2), S.I. No. 345 of 1998; repealed (1.02.2013) by *Europol Act 2012* (38/1997), s. 19, S.I. No. 15 of 2013.

E8 Previous affecting provision: application of section restricted by *Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997* (17/1997), s. 16(2); not commenced; repealed (25.09.2013) by *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (13/2013), s. 5 and sch., S.I. No. 362 of 2013.

Disclosure of confidential information in official contracts.

5.—(1) A person who is or has been—

(a) a party to a contract with a Minister or State authority or with any person on behalf of a Minister or State authority, or

(b) employed by such party,

shall not communicate to any third party any information relating to the contract and expressed therein to be confidential.

(2) A person to whom *subsection (1)* applies shall take reasonable care to avoid any unlawful communication of such information.

(3) It shall be a good defence to a prosecution for a contravention of this section to prove that the communication was authorised in writing by the Minister or State authority or by the party contracting on behalf of the Minister or State authority.

Annotations

Modifications (not altering text):

C13 Application of subs. (3) extended (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 51(2), commenced on enactment.

Amendment of Official Secrets Act 1963

51. …

(2) In a prosecution for an offence under section 5 or 9 of that Act, it shall be a defence to prove that the act to which the charge of the offence relates is authorised, or is reasonably believed by the person charged to be authorised, by this Act.

C14 Application of Act restricted (25.09.2013) by *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (33/2013), s. 74(2) and s. 89(2), S.I. No. 362 of 2013. Text as in C-Note for s. 4, *supra*.

C15 Person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 2014* (30/2014), ss. 35(1)(b), 41(1)(a) and sch. 3 part 1, commenced on enactment.

Information obtained in confidence

35.—(1) Subject to this section, a head shall refuse to grant an FOI request if— ...

(b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.

(2) Subsection (1) shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.

...

Enactments relating to non-disclosure of records.

41.—(1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in column (3) of Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule), or

...

SCHEDULE 3

ENACTMENTS EXCLUDED FROM APPLICATION OF *Section 41*

PART I

STATUTES

...		
No. 1 of 1963	Official Secrets Act 1963	Sections 4, 5 and 9.
...	...	...

C16 Application of Act restricted (25.09.2013) by *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (33/2013), s. 74(2) and s. 89(2), S.I. No. 362 of 2013.

Saver and restriction of Official Secrets Act 1963.

74.— ...

(2) Sections 4 and 5 of the Official Secrets Act 1963 shall not apply to evidence or a document given to a committee pursuant to a direction.

...

Saver and restriction of Official Secrets Act 1963.

89.— ...

(2) Sections 4 and 5 of the Official Secrets Act 1963 shall not apply to evidence or a document given to a committee pursuant to a direction.

C17 Application of Act restricted (26.04.2000) by *Commission To Inquire Into Child Abuse Act 2000* (7/2000), s. 32, commenced on enactment.

Restriction of Official Secrets Act, 1963.

32.—Sections 4 and 5 of the Official Secrets Act, 1963, do not apply to evidence given to the Commission or a Committee or a person conducting an examination pursuant to section 14(5) or to a document produced or sent to the Commission or a Committee or such a person as aforesaid.

Editorial Notes:

E9 Previous affecting provision: application of subs. (3) extended (14.10.2014) by *Freedom of Information Act 1997* (13/1997), s. 48(2), commenced on enactment; repealed as per F-Note above.

E10 Previous affecting provision: person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 1997* (13/1997), ss. 26(1)(b), 32(1)(a) and sch. 3 part 1, commenced on enactment; repealed (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 5 and sch. 4, commenced on enactment.

E11 Previous affecting provision: application of section restricted by *Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997* (17/1997), s. 16(2), not commenced; repealed (25.09.2013) by *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (13/2013), s. 5 and sch., S.I. No. 362 of 2013.

Retention of documents and articles.

6.—(1) A person shall not retain any official document or anything which constitutes or contains official information when he has no right to retain it or when not required by his duty as the holder of a public office to retain it.

(2) A person shall comply with all directions issued by a Minister or the Secretary of a Department or any person authorised by a Minister under seal as to the return or disposal of any official document or anything which constitutes or contains official information and which is in his possession or under his control and is specified or indicated in such directions.

(3) The Taoiseach may give directions as to the return or disposal of any original documents specified or indicated in such directions which constitute or contain official information and which are in the possession or under the control of any person who formerly held office as a Minister or Parliamentary Secretary and any such person shall comply with all such directions.

(4) *Subsections (1)* and *(2)* shall not apply to a person who formerly held an office to which *subsection (3)* applies.

Offences relating to official dies, seals and stamps.

7.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.08.2002)by *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001), s. 3(1) and sch. 1, S.I. No. 252 of 2002, subject to transitional provisions in s. 65.

Forgery, etc., of official documents.

8.—F2**[**...**]**

Annotations

Amendments:

F2 Repealed (1.08.2002) by *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001), s. 3(1) and sch. 1, S.I. No. 252 of 2002, subject to transitional provisions in s. 65.

PART III

COMMUNICATION OF INFORMATION TO THE PREJUDICE OF THE SAFETY OR PRESERVATION OF THE STATE

Acts contrary to safety or preservation of State.

9.—(1) A person shall not, in any manner prejudicial to the safety or preservation of the State—

(a) obtain, record, communicate to any other person or publish, or

(b) have in his possession or under his control any document containing, or other record whatsoever of,

information relating to—

(i) the number, description, armament, equipment, disposition, movement or condition of any of the Defence Forces or of any of the vessels or aircraft belonging to the State,

(ii) any operations or projected operations of any of the Defence Forces or of the Garda Síochána or of any of the vessels or aircraft belonging to the State,

(iii) any measures for the defence or fortification of any place on behalf of the State,

(iv) munitions of war, or

(v) any other matter whatsoever information as to which would or might be prejudicial to the safety or preservation of the State.

(2) Where a person is charged with a contravention of this section it shall be a good defence to prove that the act in respect of which he is charged was authorised by a Minister or by some person authorised in that behalf by a Minister or was done in the course of and in accordance with his duties as the holder of a public office.

Annotations

Modifications (not altering text):

C18 Application of subs. (2) extended (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 51(2), commenced on enactment.

Amendment of Official Secrets Act 1963

51. …

(2) In a prosecution for an offence under section 5 or 9 of that Act, it shall be a defence to prove that the act to which the charge of the offence relates is authorised, or is reasonably believed by the person charged to be authorised, by this Act.

C19 Person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 2014* (30/2014), ss. 35(1)(b), 41(1)(a) and sch. 3 part 1, commenced on enactment.

Information obtained in confidence

35.—(1) Subject to this section, a head shall refuse to grant an FOI request if— ...

(b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in *column (3)* in *Part 1* or *2* of *Schedule 3* of an enactment specified in that Schedule) or otherwise by law.

(2) Subsection (1) shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.

...

Enactments relating to non-disclosure of records.

41.—(1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in column (3) of Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule), or

...

SCHEDULE 3

ENACTMENTS EXCLUDED FROM APPLICATION OF *Section 41*

PART I

STATUTES

...		
No. 1 of 1963	Official Secrets Act 1963	Sections 4, 5 and 9.
...	...	...

Editorial Notes:

E12 Previous affecting provision: application of subs. (2) extended (14.10.2014) by *Freedom of Information Act 1997* (13/1997), s. 48(2), commenced on enactment; repealed (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 5 and sch. 4, commenced on enactment.

E13 Previous affecting provision: person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 1997* (13/1997), ss. 26(1)(b), 32(1)(a) and sch. 3 part 1, commenced on enactment; repealed (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 5 and sch. 4, commenced on enactment.

Communication with foreign agents or members of unlawful organisations.

10.—(1) Where a person is charged with a contravention of *section 9*, the fact that he has (whether within or outside the State) been in communication with or attempted to communicate with a foreign agent or with a member of an unlawful organisation shall be evidence that the act in respect of which he is charged has been done in a manner prejudicial to the safety or preservation of the State.

(2) A person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent or a member of an unlawful organisation if he has (whether within or outside the State) visited the address of a foreign agent or a member of an unlawful organisation or consorted or associated with such agent or member, or if (whether within or outside the State) the name or address of or any other information regarding a foreign agent or a member of an unlawful organisation has been found in his possession or has been supplied by him to any other person or has been obtained by him from any other person.

(3) Any address (whether within or outside the State) reasonably suspected of being an address used for the receipt of communications intended for a foreign agent or a member of an unlawful organisation, or any address at which such a person resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent or a member of an unlawful organisation and communications addressed to that address to be communications with a foreign agent or a member of an unlawful organisation.

(4) In this section—

"foreign agent" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act (whether within or outside the State) prejudicial to the safety or preservation of the State, or who has or is reasonably suspected of having (whether within or outside the State) committed or attempted to commit any such act;

"member of an unlawful organisation" means any person who is or has been or is reasonably suspected of being or having been a member of an unlawful organisation within the meaning and for the purpose of the Offences Against the State Act, 1939.

Harbouring offenders and failure to report offences.

11.—(1) A person shall not knowingly harbour any person whom he knows or has reasonable grounds for supposing to have contravened or to be about to contravene *section 9*.

(2) A person who becomes aware that there has been or is about to be a contravention of *section 9* shall forthwith disclose to a member of the Garda Síochána or of the Defence Forces any information in relation thereto which it is in his power to give.

Proceedings *in camera*.

12.—If in the course of proceedings, including proceedings on appeal, for an offence under *section 9* or for an offence under *Part II* committed in a manner prejudicial to the safety or preservation of the State, application is made by the prosecution, on the ground that the publication of any evidence or statement to be given or made during any part of the hearing would be prejudicial to the safety or preservation of the State, that that part of the hearing should be *in camera*, the court shall make an order to that effect, but the verdict and sentence (if any) shall be announced in public.

PART IV

LEGAL PROCEEDINGS AND SUPPLEMENTARY PROVISIONS

Offences.

13.—(1) A person who contravenes or attempts to contravene any provision of this Act shall, without prejudice to any other enactment, be guilty of an offence under this Act.

(2) A person shall be triable summarily for any offence under this Act and on conviction shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both.

(3) A person shall be triable on indictment for any offence under *section 9* or for any offence under *Part II* committed in a manner prejudicial to the safety or preservation of the State, and on conviction shall be liable to imprisonment for a term not exceeding two years or to penal servitude for a term not exceeding seven years.

Annotations

Amendments:

F3 Inserted (30.07.2018) by *Criminal Justice (Corruption Offences) Act 2018* (9/2018), s. 24, commenced on enactment.

Editorial Notes:

E14 Conduct which at the time it occurred was an offence under Act designated (12.02.2005) as corrupt conduct by *Proceeds of Crime Act 1996* (30/1996), s. 16B(1)(b), as inserted (12.02.2005) by *Proceeds of Crime (Amendment) Act 2005* (1/2005), s. 12, commenced on enactment.

Restriction on prosecution.

14.—(1) Proceedings for any offence under this Act shall not be instituted except by or with the consent of the Attorney General.

(2) Before such consent is obtained a person charged with an offence under *section 9* may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, but not in any case to a date later than eight days after he has been first remanded, and no further proceedings shall be taken until such consent is obtained.

Annotations

Modifications (not altering text):

C20 Function of Attorney General confirmed (19.01.1975) by *Prosecution of Offences Act 1974* (22/1974), s. 3(5), S.I. No. 3 of 1975, notwithstanding the general transfer of functions (to the Director of Public Prosecutions) effected by subs. (1) thereof.

Functions of Director.

3.—(1) Subject to the provisions of this Act, the Director shall perform all the functions capable of being performed in relation to criminal matters and in relation to election petitions and referendum petitions by the Attorney General immediately before the commencement of this section and references to the Attorney General in any statute or statutory instrument in force immediately before such commencement shall be construed accordingly.

...

(5) Notwithstanding anything in this section, where a person is charged with an offence under section 3 of the Geneva Conventions Act, 1962, the Official Secrets Act, 1963, or the Genocide Act, 1973, no further proceedings in the matter except such remand or remands in custody or on bail as the court may think necessary shall be taken without the consent of the Attorney General.

Arrest without warrant.

15.—F4**[...]**

Annotations

Amendments:

F4 Repealed (22.07.1997) by *Criminal Law Act 1997* (14/1997), s. 16 and sch. 3, commenced as per s. 1.

Search warrants.

16.—(1) On his being satisfied that reasonable grounds exist for suspecting that there has been or is about to be a contravention of *section 9* a justice of the District Court may issue a warrant to any member of the Garda Síochána to search any premises, place, vessel or aircraft.

(2) Where an officer of the Garda Síochána not below the rank of chief superintendent has reasonable grounds for believing that in the interest of the State immediate action is necessary, he may issue a search warrant having the same effect as a search warrant issued by a justice of the District Court.

(3) A search warrant issued under this section shall be expressed and shall operate to authorise a member of the Garda Síochána (not below the rank of inspector) named in the warrant together with any other persons named in the warrant and any other members of the Garda Síochána to enter, within one week from the date of the warrant and if necessary by force, any premises, place, vessel or aircraft named in the warrant and search the same and every person found therein and seize any document or thing found therein or on such person which such member reasonably believes to be evidence of or to relate, directly or indirectly, to a contravention or intended contravention of *section 9*.

(4) A member of the Garda Síochána acting under the authority of a search warrant issued under this section may—

(a) demand the name and address of any person found in the premises, place, vessel or aircraft named in the warrant, and

(b) arrest without warrant any such person who refuses to give his name and address, or gives a false name or a false address.

(5) Any document seized under this section may be removed and retained for so long as the Minister for Justice thinks proper, and any other thing so seized may be removed and retained for a period of one month from the date of its seizure or, if proceedings are commenced within such period for an offence under this Act, until the conclusion of the proceedings, and thereafter the provisions of the Police (Property) Act, 1897, shall apply to the thing so seized in the same manner as that Act applies to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act.

(6) Every person who obstructs a member of the Garda Síochána or other person acting under the authority of a search warrant issued under this section shall be guilty of an offence.

Annotations

Editorial Notes:

E15 Previous affecting provision: references to "Minister for Justice" construed (2.04.2011) as references to the Minister for Justice and Equality by *Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 138 of 2011), arts. 2 to 4, in effect as per art. 1(2); altered (1.11.2020) by *Justice and Equality (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 452 of 2020), art. 3, in effect as per art. 2, whereby the title of the Minister reverted to "the Minister for Justice".

E16 Previous affecting provision: references to "Minister for Justice" construed (2.06.2010) as references to, the Minister for Justice and Law Reform by *Justice, Equality and Law Reform (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 216 of 2010), arts. 2 to 4, in effect as per art. 1(2); altered (2.04.2011) as per E-Note above.

E17 Previous affecting provision: references to "Minister for Justice" construed (9.07.1997) as references to, the Minister for Justice, Equality and Law Reform by *Justice (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 298 of 1997), arts. 2 to 4, in effect as per art. 1(2); altered (2.06.2010) as per E-Note above.

Obtaining information as to suspected offences.

17.—(1) Where an officer of the Garda Síochána not below the rank of chief superintendent has reasonable grounds for suspecting that an offence under *section 9* has been committed and for believing that any person is able to furnish information as to the offence or suspected offence, he may apply to the Minister for Justice for permission to exercise the powers conferred by this subsection and, if such permission is granted, he may authorise a member of the Garda Síochána not below the rank of inspector to require the person believed to be able to furnish information to give any information in his power relating to the offence or suspected offence and if a person required in pursuance of such an authorisation to give information fails to comply with the requirement or knowingly gives false information he shall be guilty of an offence.

(2) Where any such officer has reasonable grounds for believing that in the interest of the State immediate action is necessary, he may exercise the powers conferred by *subsection (1)* without applying for or being granted the permission of the Minister for Justice, but if he does so shall forthwith report the circumstances to the Minister.

Power to require the production of telegrams.

18.—F5**[**...**]**

Annotations

Amendments:

F5 Repealed (6.06.1993) by *Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993* (10/1993), s. 14, commenced on enactment.

Number 1 *of* 1963

OFFICIAL SECRETS ACT 1963

REVISED

Updated to 15 April 2021

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Criminal Justice (Corruption Offences) Act 2018* (9/2018)
- *Finance Act 2016* (18/2016)
- *Freedom of Information Act 2014* (30/2014)
- *Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013* (33/2013)
- *Europol Act 2012* (53/2012)
- *Finance Act 2011* (6/2011)

- *Criminal Justice (Mutual Assistance) Act 2008* (7/2008)
- *Finance Act 2007* (11/2007)
- *Finance Act 2006* (6/2006)
- *Proceeds of Crime (Amendment) Act 2005* (1/2005)
- *Ombudsman (Defence Forces) Act 2004* (36/2004)
- *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001)
- *Commission To Inquire Into Child Abuse Act 2000* (7/2000)
- *Taxes Consolidation Act 1997* (39/1997)
- *Europol Act 1997* (38/1997)
- *Finance Act 1997* (22/1997)
- *Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997* (17/1997)
- *Criminal Law Act 1997* (14/1997)
- *Freedom of Information Act 1997* (13/2007)
- *Finance Act 1995* (8/1995)
- *Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993* (10/1993)
- *Finance Act 1983* (15/1983)
- *Ombudsman Act 1980* (26/1980)
- *Prosecution of Offences Act 1974* (22/1974)
- *Criminal Procedure Act 1967* (12/1967)

All Acts up to and including *Residential Tenancies Act 2021* (5/2021), enacted 30 March 2021, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Justice and Equality (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 452 of 2020)
- *Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 138 of 2011)
- *Justice, Equality and Law Reform (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 216 of 2010)
- *Justice (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 298 of 1997)

All statutory instruments up to and including *European Communities (Reception Conditions) (Amendment) (No. 2) Regulations 2021* (S.I. No. 178 of 2021), made 15 April 2021, were considered in the preparation of this revision.