

Laws take effect to help gardaí tackle white-collar crime

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LEGISLATION AIMED at strengthening Garda powers when investigating white-collar crime and legally protecting those who turn whistleblower comes into operation today.

A key part of the white-collar crime provisions in the Criminal Justice Act 2011 creates a new offence of failing to report business- and corporate-related crimes, which is punishable by a term of imprisonment of up to five years.

An employer who penalises a whistleblower in any way can face up to two years in prison and the whistleblower can sue for damages.

The legislation is intended to enhance the Garda's investigative powers in dealing with cases of considerable complexity.

Key provisions in the new laws seek to bolster the hand of gardaí when a witness is unwilling to attend Garda interviews or supply information like financial records. Such uncooperative behaviour can seriously hamper or derail the progress of an investigation.

The measures have been fasttracked by the Government in response to some of the difficulties faced by officers investigating suspected criminality that precipitated the economic collapse, particularly the banking crisis.

The legislation is aimed at improving the investigation of "serious and complex offences" attracting a penalty of at least five years on conviction.

Minister for Justice Alan Shatter said the Act was an important step in ensuring the white-collar criminal would be vigorously pursued.

"We must put an end to any hint of a culture that suggests that the white-collar criminal can act with impunity," he said.

Under the Act, a person who has information that could help prevent a white-collar crime or help the investigation of an offence already committed is guilty of an offence unless they provide that information to the Garda.

The information must be supplied "as soon as practicable".

Failure to supply the information, and to do so quickly, carries a jail term of up to five years on conviction.

Gardaí also have new powers under the Act that represent a radical departure from procedures heretofore around the arrest and detention of suspects.

Under the Act, suspects arrested for questioning about a white-collar crime can be released from custody and their periods of detention suspended. They can then be instructed at a later date to return to a Garda station when their earlier arrest and period of detention is resumed.

It means if a complex piece of information, or something that needs further investigation by the Garda, emerges during questioning the suspect can be released to allow officers to investigate the information and be better informed when the suspect is again detained.

Under the traditional system, periods of detention cannot be extended in this way.

A suspect for any crime is arrested and questioned and then charged or released without charge. They can only be rearrested for questioning about the same crime if new information emerges.

There has never been any provision to release suspects midway through a period of detention to allow gardaí prepare to continue that same session of questioning at a later date.

This provision is seen as crucial in that it will allow detectives time to arm themselves with additional information when suspects raise issues of a complex financial nature that cannot be immediately understood by those officers involved in the questioning.

The Act also gives gardaí the additional power of being able to apply for a court order compelling a witness to answer questions or provide documents relevant to an investigation.

This follows an apparent unwillingness or reluctance by some witnesses to fully assist gardaí in some high-profile white-collar investigations in recent times.

There are also new rules governing how such witnesses present material to officers. For example, an investigation could be hampered by a witness supplying large volumes of paperwork that has not been arranged in chronological order.

OFFENCES COVERED:

According to the Department of Justice the variety of crimes covered include those in the areas of:

- * Banking and finance
- * Company law
- * Money laundering
- * Fraud
- * Corruption
- * Competition
- * Consumer protection
- * Cybercrime

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