



DÁIL ÉIREANN

**AN BILLE UM CHEARTAS COIRIÚIL (SCIÚRADH AIRGID
AGUS MAOINIÚ SCEIMHLITHEOIREACHTA) 2009
CRIMINAL JUSTICE (MONEY LAUNDERING AND
TERRORIST FINANCING) BILL 2009**

**LEASUITHE A RINNE AN SEANAD
AMENDMENTS MADE BY THE SEANAD**

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AN BILLE UM CHEARTAS COIRIÚIL (SCIÚRADH AIRGID AGUS MAOINIÚ SCEIMHLITHEOIREACHTA) 2009 [BILLE DÁIL ARNA LEASU AG AN SEANAD]

CRIMINAL JUSTICE (MONEY LAUNDERING AND TERRORIST FINANCING) BILL 2009 [DÁIL BILL AMENDED BY THE SEANAD]

*Leasuithe a rinne an Seanad
Amendments made by the Seanad*

*[The page and line references in this list of amendments
are to the text of the Bill as passed by Dáil Éireann.]*

SECTION 8

1. In page 12, subsection (1), line 39, to delete “that constitutes an offence under the law of that place and”.
2. In page 13, subsection (1), to delete lines 1 to 5 and substitute the following:
“(c) the conduct constitutes an offence under the law of that place and the person is—

(i) an individual who is a citizen of Ireland or ordinarily resident in the State, or

(ii) a body corporate established under the law of the State or a company registered under the Companies Acts,”.

SECTION 24

3. In page 20, subsection (1), between lines 6 and 7, to insert the following:
““barrister” means a practising barrister;”.
4. In page 21, subsection (1), line 39, after “1995” to insert the following:
“(other than a non-life insurance intermediary within the meaning of that Act)”.
5. In page 22, subsection (1), line 10, after “1995” to insert the following:
“(other than a non-life insurance intermediary within the meaning of that Act)”.
6. In page 22, subsection (1), between lines 31 and 32, to insert the following:
““member”, in relation to a designated accountancy body, means a member, within the meaning of Part 2 of the Companies (Auditing and Accounting) Act 2003, of a designated accountancy body;

“member”, in relation to the Irish Taxation Institute, means a person who is subject to the professional and ethical standards of the Institute, including its investigation and disciplinary procedures, but does not include a person who is admitted to its membership as a student;”.

7. In page 22, subsection (1), between lines 31 and 32, to insert the following:

““occasional transaction”, in relation to a customer of a designated person, means a single transaction, or a series of transactions that are or appear to be linked to each other, where—

(a) the designated person does not have a business relationship with the customer, and

(b) the total amount of money paid by the customer in the single transaction or series is greater than €15,000;”.

8. In page 24, subsection (1), to delete lines 5 to 14 and substitute the following:

““relevant professional adviser” means an accountant, auditor or tax adviser who is a member of a designated accountancy body or of the Irish Taxation Institute;”.

9. In page 24, subsection (1), between lines 14 and 15, to insert the following:

““solicitor” means a practising solicitor;”.

SECTION 33

10. In page 30, subsection (1), lines 8 to 16, to delete paragraph (b) and substitute the following:

“(b) prior to carrying out an occasional transaction with, for or on behalf of the customer or assisting the customer to carry out an occasional transaction,”.

11. In page 30, subsection (1), lines 36 to 40 to delete paragraph (d), and substitute the following:

“(d) prior to carrying out any service for the customer if—

(i) the person has reasonable grounds to doubt the veracity or adequacy of documents (whether or not in electronic form) or information that the person has previously obtained for the purpose of verifying the identity of the customer, whether obtained under this section or section 32 of the Criminal Justice Act 1994 (“the 1994 Act”) prior to its repeal by this Act or under any administrative arrangements that the person may have applied before section 32 of the 1994 Act operated in relation to the person, and

(ii) the person has not obtained any other documents or information that the person has reasonable grounds to believe can be relied upon to confirm the identity of the customer.”.

12. In page 33, subsection (8)(a), line 3, after “service” to insert “or carry out the transaction”.

SECTION 34

13. In page 34, line 41, subsection (5)(d)(i), to delete “a treaties” and substitute “the treaties”.

SECTION 37

14. In page 36, subsection (2), lines 42 to 44, to delete paragraph (b), and substitute the following:

“(b) carrying out an occasional transaction with, for or on behalf of the customer or assisting the customer to carry out an occasional transaction.”.

15. In page 37, lines 4 to 16, to delete subsection (4), and substitute the following:

“(4) If a designated person knows or has reasonable grounds to believe that a customer residing in a place outside the State is a politically exposed person or an immediate family member or close associate of a politically exposed person, the designated person shall—

- (a) ensure that approval is obtained from any senior management of the designated person before a business relationship is established with the customer, and
- (b) determine the source of wealth and of funds for the following transactions —
 - (i) transactions the subject of any business relationship with the customer that are carried out with the customer or in respect of which a service is sought, or
 - (ii) any occasional transaction that the designated person carries out with, for or on behalf of the customer or that the designated person assists the customer to carry out.”.

16. In page 37, subsection (5), line 17, to delete “(4)(b)” and substitute “(4)(a)”.

17. In page 37, subsection (5), line 20, to delete “(4)(b)” and substitute “(4)(a)”.

18. In page 37, lines 25 to 32 to delete subsection (6), and substitute the following:

“(6) If a designated person knows or has reasonable grounds to believe that a beneficial owner residing in a place outside the State, and connected with a customer or with a service sought by a customer, is a politically exposed person or an immediate family member or close associate of a politically exposed person, the designated person shall apply the measures specified in *subsection (4)(a)* and *(b)* in relation to the customer concerned.”.

19. In page 37, lines 33 to 40 to delete subsection (7), and substitute the following:

“(7) For the purposes of *subsections (4)* and *(6)*, a designated person is deemed to know that another person is a politically exposed person or an immediate family member or close associate of a politically exposed person if, on the basis of—

- (a) information in the possession of the designated person (whether obtained under *subsections (1)* to *(3)* or otherwise),

(b) in a case where the designated person has contravened *subsection (1) or (2)*, information that would have been in the possession of the person if the person had complied with that provision, or

(c) public knowledge,

there are reasonable grounds for concluding that the designated person so knows.”.

20. In page 37, subsection (8)(a), line 45, to delete “not establish any business relationship” and substitute “discontinue the business relationship (if any)”.

21. In page 37, subsection (8)(b), line 47, after “service” to insert “or carry out the transaction”.

SECTION 40

22. In page 40, subsection (1)(a), to delete lines 38 to 40 and substitute the following:

“(iv) who is a tax adviser, and who is also a solicitor or a member of a designated accountancy body or of the Irish Taxation Institute,”.

23. In page 40, subsection (1)(a)(vi), line 44, to delete “or of the Law Society of Ireland” and substitute “, a solicitor”.

SECTION 55

24. In page 49, lines 36 to 45, to delete subsection (4) and substitute the following:

“(4) The documents and other records referred to in *subsections (1) to (3)* shall be retained by the designated person, at an office or other premises in the State, for a period of not less than 5 years after—

(a) in the case of a record referred to in *subsection (1)(a)*, the date on which the designated person ceases to provide any service to the customer concerned or the date of the last transaction (if any) with the customer, whichever is the later,

(b) in the case of a record referred to in *subsection (1)(b)*, the date on which the correspondent banking relationship concerned ends,

(c) in the case of a record referred to in *subsection (3)* evidencing the carrying out of a particular transaction by the designated person with, for or on behalf of the customer (other than a record to which *paragraph (d)* applies), the date on which the particular transaction is completed or discontinued,

(d) in the case of a record referred to in *subsection (3)* evidencing the carrying out of a particular occasional transaction comprised of a series of transactions, with, for or on behalf of a customer, the date on which the series of transactions is completed or discontinued, or

(e) in the case of a record referred to in *subsection (3)* evidencing the carrying out of a particular service for or on behalf of the customer (other than a record to which *paragraph (c)* or *(d)* applies), the date on which the particular service is completed or discontinued.

(5) *Subsection (4)(a)* extends to any record that was required to be retained under section 32(9)(a) of the Act of 1994 immediately before the repeal of that provision by this Act.

(6) *Subsection (4)(c) to (e)* extends to any record that was required to be retained under section 32(9)(b) of the Criminal Justice Act 1994 immediately before the repeal of that provision by this Act and for that purpose—

(a) a reference in *subsection (4)(c) to (e)* to a record referred to in *subsection (3)* includes a reference to such a record, and

(b) a reference in *subsection (4)(d)* to an occasional transaction comprised of a series of transactions includes a reference to a series of transactions referred to in section 32(3)(b) of the Criminal Justice Act 1994.”.

25. In page 50, subsection (5), line 2, to delete “(1) to (3)” and substitute “(1) to (6)*”.

[*Note: This is a reference to the subsection inserted by amendment No. 24.]