



**An Bille um Fháлтаis ó Choireacht agus Nithe
Gaolmhara, 2025**
Proceeds of Crime and Related Matters Bill 2025

Meabhrán Míniúcháin
Explanatory Memorandum



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EXPLANATORY MEMORANDUM

Main Purpose of the Bill

The Proceeds of Crime and Related Matters Bill 2025 aims to modernise and strengthen the State's capacity to deprive criminals of illicitly obtained assets. The major provisions in the Bill include:

- It will reduce from seven years to two years the time between an order being made that assets are the proceeds of crime and a final disposal order being available in respect of those assets;
- It will provide for, on a judicial determination being made that assets are the proceeds of crime, the immediate and automatic appointment of a receiver in respect of those assets to ensure that respondents cannot continue to the benefit from those assets pending a final disposal order being made, subject to a protection against a risk of injustice;
- It will ensure that the once a determination has been made that assets are the proceeds of crime, that this question is not re-litigated at the point of disposal; respondents will continue to have the ability to appeal such a determination, and during the period prior to disposal to seek to vary or revoke such a determination.
- It enhances the restraint of financial accounts and asset detention powers available to CAB during a proceeds of crime investigation.

Provisions of the Bill

PART 1

Preliminary and General

Section 1: Short Title, Collective Citations and Commencement

Section 1 is a standard provision, providing for the short title, collective citations and commencement.

Section 2: Definition

Section 2 defines the Principal Act as the Proceeds of Crime Act 1996.

PART 2

Amendment of the Proceeds of Crime Act 1996

Section 3: Amendment of section 1 of Principal Act

Section 3(a)(i) inserts relevant definitions to the Principal Act.

These amendments are primarily for the purpose of the amendments provided for in Section 5 in respect of payment freezing directions and orders:

- The definitions of “crypto asset”, “crypto-assets service”, “crypto-asset service provider”, and “markets in crypto-assets Regulation” align with the EU regulatory framework for crypto-assets.
- The definitions of “account” and “funds”, delimit the scope of assets which may be subject to those freezing provisions, notably covering accounts containing monies and crypto-assets.
- The definition of “relevant provider” delimits the institutions in respect of whom a freezing direction or order may be made. This includes credit and financial institutions and includes crypto-asset service providers.
- The definition of “Act of 2010” is a standard interpretative provision, referring to the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.
- The definitions of “payment freezing direction” and “payment freezing order” refer to those new mechanisms.

Further definitional provisions are included to define certain roles and ranks for the purposes of the exercise of CAB and Garda powers.

Section 3(a)(ii) substitutes the definition of “member”. The purpose of this change is to update the terminology used in the Principal Act to align with that used in the Policing, Security and Community Safety Act 2024. This ensures consistency across the statute book in relation to the definition of a member of An Garda Síochána.

Section 3(b) is a technical and consequential amendment to *section 3(1A)(a)(i)* that flows from the new definition of “member”. It replaces the phrase “any member of the Garda Síochána” with the newly defined term “any member” for consistency and legislative clarity.

Section 4: Amendment of section 1A of Principal Act

Section 4 amends *section 1A* of the Proceeds of Crime Act 1996. It provides that where the Chief Bureau Officer has authorised the detention of property for a 21-day period in accordance with *section 1A(2)*, the Chief Bureau Officer may apply to the District Court on an *ex parte* basis for the continued detention of the property, if it is subject to an ongoing proceeds of crime investigation, for a further 28-day repeatable period. The total aggregate time that property can be detained under this provision cannot exceed 90 days.

Section 5: Insertion of sections 1D to 1J in Principal Act

Section 5 provides for payment freezing directions and orders to be made in respect of certain funds held in accounts by relevant financial services providers where it is suspected that those funds may be proceeds of crime.

Section 1D (as inserted) provides for a bureau officer who is a member not below the rank of Superintendent to give a direction prohibiting a financial services provider from permitting a payment or transfer out of an account for a period of 7 days where that is necessary to enable preliminary investigations. This provision allows for immediate freezing on an interim basis to prevent the dissipation of funds and allow necessary investigations to support further actions, including an application under *section 1E*.

Section 1E (as inserted) provides for the court to make an order prohibiting a financial services provider from permitting a payment or transfer out of an account. An order may be made for a period of up to 90 days, and may be renewed.

Sections 1F (as inserted) sets out the notice requirements to persons affected by directions and orders.

Section 1G (as inserted) enables the District Court to vary or revoke an order or direction.

Section 1H (as inserted) provides for an offence in respect of breach of an order or direction.

Section 1I (as inserted) sets out the circumstances on which a direction or order will cease to have effect.

Section 1J (as inserted) provides that compliance with a direction or order is not a breach of any requirement imposed by law.

Sections 6 and 7: Amendment of section 2 and section 3 of Principal Act

Section 6 and Section 7 include technical amendments to *sections 2(1) and 3(1)* of the Principal Act respectively to reflect the updated definitions effected by *section 3* of the Bill.

Section 8: Amendment of section 4 of Principal Act

Section 8 amends *section 4* of the Principal Act, which governs the making of a disposal order.

The amendment to *subsection (1)* provides that the required time between the making of a section 3 order and a disposal order under section 4 is reduced from 7 years to 2 years.

The existing *subsection (2)* is repealed with its effect is now incorporated into *subsection (1)*.

The newly inserted *subsection (6A)* restricts the re-arguing or re-opening of the finding of the court at the section 3 stage that the property constitutes proceeds of crime.

The amendment of *subsection (7)* provides, as a consequence of the reduction of the overall period before a disposal order is available, that the maximum period the court can adjourn the hearing in the “interests of justice” is reduced from 2 years to 6 months.

The amendment to *subsection (8)* clarifies the existing provision in respect of a serious risk of injustice.

Section 8(2) provides that the amendments to *section 4* do not have retrospective effect in relation to orders already made under *section 3*. This means that any such orders will continue to be subject to the section as it stood prior to amendment. The new provisions will only apply to orders made after the amendment is enacted.

Section 9: Amendment of section 4A of Principal Act

Section 9 removes the limitation that a consent disposal order under *section 4A* of the Principal Act could only be made within the 7-year period prior to the availability of a disposal order. This allows the uncontested disposal order process to be used where the parties consent even if a contested disposal order process has become available.

Section 10: Amendment of section 6 of Principal Act

Section 10 is a consequential amendment that flows from the approach to the appointment of a receiver under *section 11* and it limits the benefit that a person may seek from property that is the subject of an interlocutory order.

Section 11: Amendment of section 7 of Principal Act

Section 11 introduces a presumption in favour of the immediate appointment of a receiver, on application by the Criminal Assets Bureau, where an interlocutory order is in place, unless the court is satisfied that serious injustice would result.

The amendment provides that a purpose of the receivership is to deprive the respondent of the ongoing benefit and use of the property.

The section provides for a mechanism (*subsection (1E)*) for the respondent or any affected person to apply to the court to have the receiver's appointment revoked or varied in the interests of justice.

Section 12: Amendment of section 8 of Principal Act

Section 12 provides for the following amendments:

- *Section 8(1)* is amended by substituting “a specified member” for “a member,” defining “specified member” as a member not below the rank of Chief Superintendent.
- *Section 8(3)* is amended to provide that the court has discretion to hear “any other proceedings” in private subject to sections 1A(2G), 1B(4) and 1E(2).

Section 13: Amendment of section 15 of Principal Act

Section 13 provides for a consequential amendment arising from changes in definitions that substitutes “a member” for “a member of the Garda Síochána”.

Section 14: Amendment of section 16B of Principal Act

Section 14 is a consequential amendment arising from the changes in definitions that substitutes “a specified member” for “a member”. “Specified member” means a member not below the rank of Chief Superintendent.”

PART 3

Amendment Of Criminal Justice Act 1994, Criminal Assets Bureau Act 1996 And Criminal Justice (Corruption Offences) Act 2018

Section 15: Amendment of section 43 of Criminal Justice Act 1994

Section 15 harmonises the definition of “cash” in *section 43* of the Criminal Justice Act 1994 with Regulation (EU) 2018/1672 (the EU Cash Control Regulation). This definition of cash in Regulation (EU) 2018/1672 poses challenges when applied to *section 41* of the Criminal Justice Act 1994, which mandates placing seized cash into an interest-bearing account within 48 hours (a requirement not feasible for non-currency items like gold bullion or prepaid cards.) Therefore, *section 41* of the 1994 Act is amended to provide that this section only applies to: (i) currency; (ii) bearer-negotiable instruments.

Section 16: Amendment of Criminal Assets Bureau Act 1996

Section 16 provides for the following amendments:

- *Section 1(1)* of the Criminal Assets Bureau Act 1996 is amended by substituting the definition of “Revenue Acts” to align it with the

meaning provided in section 859 of the Taxes Consolidation Act 1997.

- *Section 8(6A)* of the Criminal Assets Bureau Act 1996 is amended by the insertion after paragraph (b) of “section 50 of the Criminal Justice Act 2007” enabling non-Garda bureau officers to attend interviews of persons detained under this Act.
- *Section 10* of the Criminal Assets Bureau Act 1996 by extending the existing anonymity provisions in place to protect CAB officers and staff to cover former officers and staff.

Section 17: Amendment of section 22 of Criminal Justice (Corruption Offences) Act 2018

Section 17 clarifies the application of specific provisions of the Criminal Justice Act 1994 to Criminal Justice (Corruption Offences) Act 2018 concerning the treatment of seized and forfeited assets.

Financial Implications

The Bill is not expected to give rise to significant costs to the Exchequer.

*An Roinn Dlí agus Cirt, Gnóthaí Baile agus Imirce,
Iúil, 2025.*

