

Customs and Excise Enforcement Procedures Manual

Document last updated October 2023

Table of Contents

1	CHAPTER 1 - Introduction	9
1.1	Enforcement Situations	9
1.2	Manual Objectives	9
1.3	Enforcement Objectives	11
1.4	Customer Service Commitments	11
1.4.1	Ombudsman	12
1.4.2	Freedom of Information	12
1.5	Related Documentation.....	12
2	CHAPTER 2 The Irish Legal System	15
2.1	Sources of Law	15
2.2	The Court System.....	15
2.3	Summary and Indictable Offences.....	16
2.4	Court Case Categories.....	16
2.5	Court Structure	17
3	CHAPTER 3 General Guidelines on Enforcement Work.....	20
3.1	Authorisations	20
3.2	Dealing with the Public	21
3.3	Organising Case Work.....	21
3.4	Safety and Security Considerations	22
3.4.1	Garda Assistance	23
3.4.2	Security of Goods Seized/Detained.....	23
3.5	Notetaking	24
3.5.1	What to avoid when using notebooks.....	25
3.5.2	Contemporaneous Notes	25

3.5.3	Security of Notebooks	25
3.5.4	Notetaking at an interview	26
3.5.5	Using notebooks in court	26
3.6	The Judges' Rules	27
3.6.1	Issuing a caution	28
3.6.2	Recording a statement	28
3.6.3	Recording an interview	29
3.7	Questioning and Caution	29
3.7.1	General	29
3.7.2	Types of Questioning	30
3.7.3	Standard Procedures	30
3.7.4	Issuing a Caution	31
3.8	Search Warrants	32
3.8.1	Applying for a Search Warrant	32
3.8.2	Executing Search Warrants	33
3.8.3	Recording Search Warrants	33
3.9	Evidence	34
3.9.1	General	34
3.9.2	Types of evidence	34
3.9.3	The suppression of evidence	37
3.9.4	The chain of custody of evidence	37
3.9.5	The admissibility of evidence	38
3.9.6	Evidence unconstitutionally obtained	39
3.9.7	Evidence illegally obtained	39
3.9.8	Competence and compellability of witnesses	39

3.9.9	Disclosure – Privilege.....	39
3.9.10	Standard of proof	40
3.9.11	Summary.....	40
3.10	Arrest and Charge	40
3.10.1	General	40
3.10.2	Relevant Legislation.....	41
3.10.3	Circumstances in which arrests arise.....	42
3.10.4	Arrest Procedure.....	43
3.10.6	Charge sheet.....	43
3.11	Reporting	45
3.11.1	General	45
3.11.2	Guidelines on providing a report.....	45
3.11.3	Additional statements of evidence.....	46
3.12	Statements of Evidence	47
3.12.1	Witness Statements.....	47
3.12.2	Expert Witness.....	47
3.12.3	Revenue Officer’s Statement of Evidence	49
3.12.4	Cautioned Statements	51
3.14	Preparing for court	52
3.14.1	Introduction.....	52
3.14.2	Guidance on Preparing for Court.....	52
3.14.3	Providing evidence in court	54
3.14.4	Claiming of expenses	55
4	CHAPTER 4 Powers.....	57
4.1	Use of Powers	57

4.2	Excisable Products – Enforcement Law	58
4.2.1	General	58
4.2.2	Excisable Products - Offences.....	58
4.3	Level of Authority for the exercise of legal powers	61
4.3.1	General Authority.....	61
4.3.2	Specific Authority	61
4.3.3	Statutory Right of Entry.....	62
4.4	Inspection of Goods and Records	72
4.5	Sampling	79
4.5	Search of Premises Under Warrant	82
4.6	Search of Premises under Statutory Right of Entry	85
4.7	Questioning	88
4.8	Removal and Detention of Documents.....	95
4.9	Stopping a Conveyance.....	98
4.10	Searching a conveyance.....	101
4.11	Detaining a conveyance.....	103
4.12	Detention and Seizure	105
4.13	Notice of Claim against a Seizure.....	105
4.14	Seizure and detention of cash that is suspected to be associated with criminal activity.....	106
4.15	Detention, Seizure and Forfeiture	106
4.16	Search of Person	111
4.17	Arrest of Person.....	114
4.18	Miscellaneous Powers	115
5	CHAPTER 5 Customs and Excise offences.....	119
5.1	Customs offences	119

5.1.1	Offences relating to the control of persons and their baggage	119
5.1.2	Offences relating to the control of movement of aircraft.....	120
5.1.3	Offences relating to the control of movement of vessels	122
5.1.4	Offences relating to the control of postal traffic.....	123
5.1.5	Offences relating to reporting of inward and outward aircraft	123
5.1.6	Offences relating to improper import or export of goods	124
5.1.7	Miscellaneous Customs Offences.....	126
5.1.8	Normal Supporting Material regarding the Commission of an Offence.....	127
5.2	Excise Offences: Introduction	128
5.2.1	Evasion of Excise Duty Offences.....	129
5.2.2	Marked Mineral Oil/Laundered Oil Offences	130
5.2.3	Excisable Products.....	133
5.2.4	Excisable Product Offences	134
5.3	Vehicle Registration Tax (VRT) Offences.....	145
5.3.1	Introduction.....	145
5.3.2	Overall Strategy – Voluntary Compliance.....	145
5.3.3	Statute of Limitations	145
5.3.4	Proofs required for successful VRT prosecutions	146
5.3.5	VRT Offences - Categories of offence.....	146
5.3.6	VRT Offences: registration or payment of VRT	147
5.3.7	VRT offences committed specifically by authorised persons	158
5.3.8	VRT offences associated with certificates, declarations, etc.....	160
5.3.9	VRT offences involving fraudulent repayment claims	164
5.4	Excise Licence Offences	165
5.5	Betting Duty Offences.....	173

5.6	Tobacco Tax Stamps Offences	174
5.6.1	Counterfeiting or altering tobacco stamps offences	177
5.6.2	Illicit Manufacture of Tobacco Offences	178
6	CHAPTER 6 Management of Seized Goods.....	182
6.1	Detention/Seizure.....	182
6.2	Legislation.....	182
	Appendices	183
	Appendix 1: Caution Wording Translations.....	184
	Appendix 2: Specimen Charges	186
	Appendix 3: Applications for Search Warrants	191
	Appendix 4: Sample Witness Statement-Excise Licences.....	201
	Appendix 5: Specimen Notices of Detention/Seizure	202
A.	Notice of Detention under section 33 of Customs Act 2015.....	203
B.	Notice of Seizure under section 18 of Customs Act 2015	206
C.	Notice of Seizure under section 142 of Finance Act 2001	210

Chapter 1

Introduction

1 CHAPTER 1 - Introduction

The guidelines contained in this manual are intended for the use of staff employed on enforcement duties. It cannot cover every situation which may arise and staff should exercise their judgement and experience in consultation with line management. Guidance and prior approvals in accordance with these instructions should be sought where appropriate.

This manual supports additional instructions ([see 1.5 Related documents](#)) for the enforcement of various Customs and Excise provisions. It is intended as a supplementary aid to provide an easy reference to the principal legislative provisions available to staff for enforcement purposes and the best practice which they should pursue in handling cases with a view to achieving successful enforcement results.

Revenue's mission is to serve the community by fairly and efficiently collecting taxes and duties and implementing customs controls. A presumption of our customers' honesty is fundamental to the way that Revenue does its business. Revenue's tax and duty system must be effectively controlled, so that we can support our compliant customers through identifying and acting against those who fail to meet their obligations.

Our compliance interventions achieve considerable success in ensuring that customers fully address their tax and duty obligations. There are situations, however, where actions over and above compliance measures are required, and that is where our enforcement actions come into play.

1.1 Enforcement Situations

The types of situations that enforcement action addresses include:

- Where there is deliberate failure to comply with tax or duty requirements;
- Where criminal activity is engaged in to evade tax and duty liabilities;
- Where smuggling of prohibited materials or goods such as drugs occurs;
- Where there is a failure to comply with specific statutory requirements such as licensing obligations, in respect of which Revenue has enforcement responsibility.

1.2 Manual Objectives

The objectives of this manual are to provide:

- An outline of the principal legislative provisions relevant to the work of officers engaged on such duties (chapter 2);
- Guidance on best practice for Revenue officers engaged on Customs and Excise enforcement duties (chapter 3);
- Guidelines on the use of Revenue powers (chapter 4);

- A list of Customs and Excise offences and a list of the evidence normally required to prove a prosecution case (chapter 5);
- Guidelines on the management of seized goods (chapter 6).

1.3 Enforcement Objectives

The central aims of Revenue's enforcement work are to:

- Prevent loss to the Exchequer through tax and duty evasion and other criminal activity such as smuggling or fuel laundering;
- Protect legitimate, tax compliant businesses and the employment they provide against the unfair competition posed by illegal activity.

The aim is to limit, as far as possible, the opportunities for criminal activity. We seek to detect and investigate any offences that are committed and ensure that appropriate action is taken against the person or persons responsible. This could involve, amongst other things:

- Preparing a case for prosecution through the Courts;
- Imposing a compromise sum in lieu of prosecution;
- Raising of assessments of tax liability where it is established that tax is owed or ensuring that the issue is referred to the appropriate Division;
- Requiring the payment of interest and penalties where tax or duty obligations have not been complied with;
- Seizure and forfeiture of goods, vehicles or equipment used in illegal activities.

1.4 Customer Service Commitments

Revenue officers should always be mindful of public expectations, citizens' rights and Revenue's responsibilities which are outlined in the [Customer Service Charter](#).

The Charter represents a comprehensive statement of the standards and principles of service to which Revenue is committed. The public are entitled to rely on the terms of the Charter and to require officers to comply with these terms. Officers should, accordingly, have a thorough knowledge and awareness of the terms of the Customer Service Charter. When exercising powers, they should ensure that at all times they act within the terms of Revenue's Customer Service Charter.

The rights to which the public are entitled under the Customer Service Charter are as follows:

- Consistency, equity and confidentiality;
- Courtesy and consideration;
- Information and assistance;
- Presumption of honesty;
- Compliance costs to be kept to the minimum;
- Ability to avail of complaints, review and appeal procedures.

1.4.1 Ombudsman

The Ombudsman is a supervisory authority and its role is to examine complaints from members of the public who believe that they have been unfairly treated by certain public bodies including Revenue. The Ombudsman has extensive powers and can request any information, document or file from a body complained of and can require any official to give information about a complaint. See sections 3.2 [Dealing with the public](#) and 4.1 [Use of Powers](#).

1.4.2 Freedom of Information

The Freedom of Information Act 2014 provides that, from the effective date, every person has the right to:

- Access official records held by Government Departments or other public bodies as defined by the act;
- Have personal information held on them corrected or updated where such information is incomplete, incorrect or misleading;
- Be given reasons for decisions taken by public bodies that affect them.

These rights mean that people can seek access to personal information held on them no matter when the information was created, and to other records created after the effective date.

A record includes a book, letter, diary entry, note or other written or printed material which is in any form including in any electronic device. It is a map, plan or drawing, a disc, tape, photograph or film which contains visual or non-visual images or a copy of any of these.

The definition of a record is all encompassing and therefore officers should be aware that anything they write, including reports and entries in notebooks, could become publicly available.

1.5 Related Documentation

This manual supports the additional guidelines and instructions in use for the enforcement of various Customs and Excise provisions, including:

Manual on the Control and Examination of Baggage

Guidelines on Cash Seizures

Marker Trace System for the Detection of Accutrace S10 Fuel Marker

Policies and Guidelines on Enforcement Action Following Detection of the Misuse of Marked Fuel

Health and Safety Guidelines for Road Tankers

VRT Manual Section 2 Reliefs and Exemptions

VRT Manual Section 5 Enforcement

Procedures in relation to the Import or Export of Childlike Dolls

Powers of Officers in respect of Certain Tobacco Products under section 138 of Finance Act 2001

Importation and Exportation of Falsified Medical Products

Guidelines and Procedures for Conducting Surveillance

Communications (Retention of Data) Act 2011

2015 Finance Act Amendments to section 135 and 136 of Finance Act 2001

Passenger Disclosures to An Garda Síochána

Amusement and Gaming Manual

Mineral Oil Traders Licence Manual

Chapter 2

The Irish Legal System

2 CHAPTER 2 The Irish Legal System

2.1 Sources of Law

The sources of law are the rules and principles of law which exist in the legal system. These rules and principles come from several internal and external sources. Irrespective of the source of law, officers must always act in accordance with the relevant legislation and as directed by the Revenue Commissioners.

The main sources of Irish Law are:

- The Constitution of Ireland (Bunreacht na hÉireann);
- Statute Law (Primary Legislation);
- Secondary Legislation (Statutory Instruments);
- Common Law;
- Case Law;
- European Law.

2.2 The Court System

Articles 34-37 of the Irish Constitution deal with the administration of justice in general and outline the structure of the court system.

The main courts in Ireland are as follows:

- **The District Court** has jurisdiction over minor civil and criminal matters. You can appeal the outcome of a case heard in the District Court to the Circuit Court. Most cases involving Customs and Excise offences are heard in the District Court. Details of the districts in operation are provided in the [District Court \(Districts\) Order 2017 \(Statutory Instrument No. 182 of 2017\)](#).
- **The Circuit Court** has jurisdiction in more serious civil and criminal matters. You can appeal the outcome of a case heard in the Circuit Court to the High Court.
- **The High Court** also has jurisdiction over civil and criminal matters. For example, the most serious criminal offences, such as murder, are dealt with by the High Court. You can appeal the outcome of a case heard in the High Court to the Court of Appeal or, in some instances, directly to the Supreme Court.
- **The Central Criminal Court** is the High Court exercising its criminal jurisdiction. It consists of a Judge or Judges of the High Court nominated by the President of the High Court. The Court tries criminal cases which are outside the jurisdiction of the Circuit Court.
- **The Special Criminal Courts** was provided for by The Offences Against The State Act 1939 and sits without a jury. There is a panel of 11 judges appointed to the court who are drawn from the High, Circuit and District Courts. An

appeal against conviction or sentence by a Special Criminal Court may be taken to the Court of Appeal.

- **The Court of Appeal** hears appeals from the High Court in civil cases and the Circuit Criminal Court, the Central Criminal Court and the Special Criminal Court in criminal cases. The court is composed of a President and nine judges. The Chief Justice and the President of the High Court are, by virtue of their office, judges of the Court of Appeal.
- **The Supreme Court** has appellate jurisdiction from all decisions of the High Court and is the court of final appeal. The President may refer a Bill (or any of its provisions) that has been passed by both Houses of the Oireachtas to the Supreme Court to determine whether it is repugnant to the Constitution. The Court may also give a ruling on a question of law submitted to it by a lower court. It is composed of the Chief Justice of Ireland, who is President of the Court, and nine other Judges. In addition, the President of the High Court and the President of the Court of Appeal are ex officio members of the Supreme Court.

2.3 Summary and Indictable Offences

Criminal offences can be heard by the Courts in two ways:

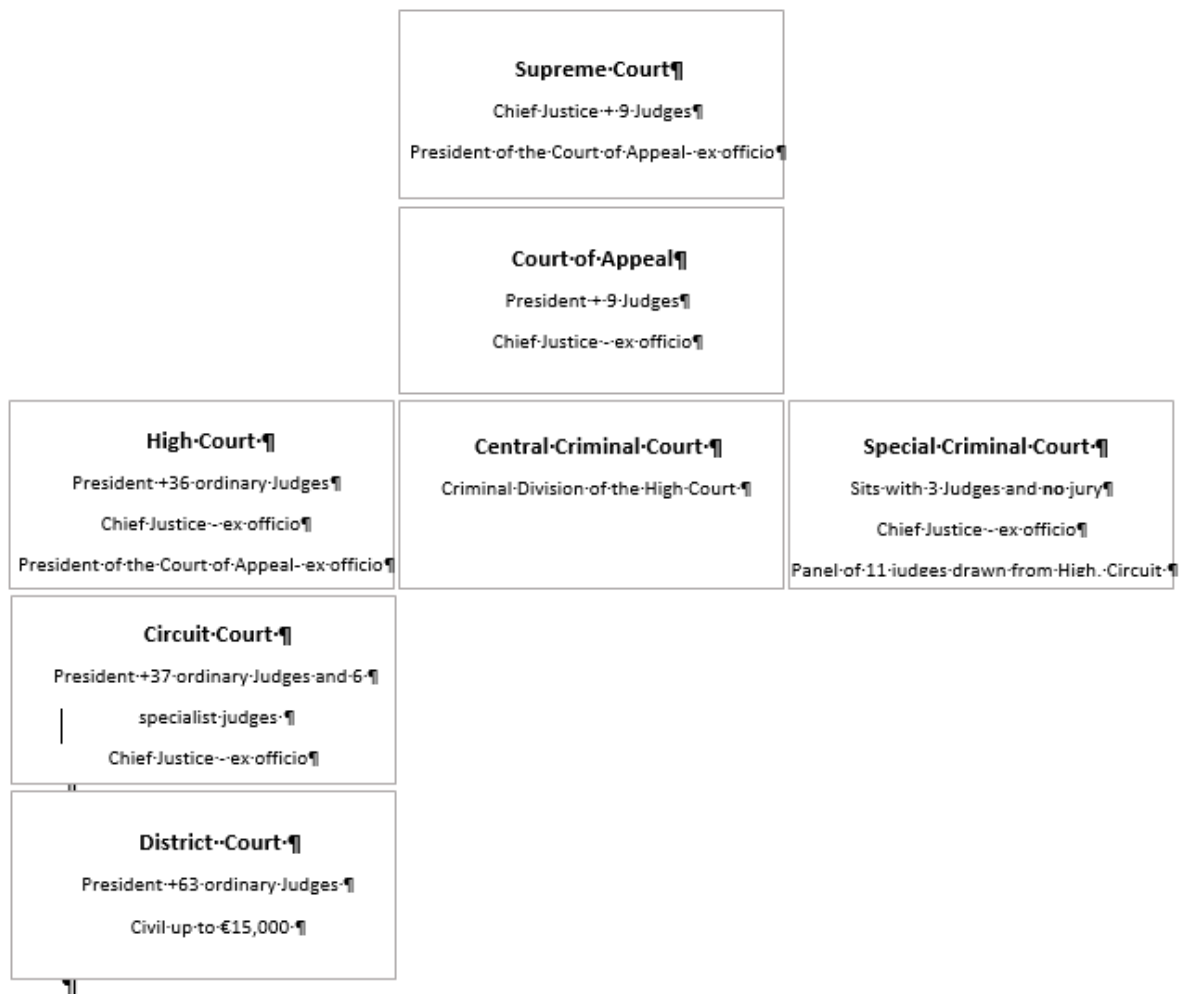
- Summary offences are of lower severity and can be heard in front of a judge without a jury in the District Court;
- Indictable offences are serious charges which can or must be heard before a judge and jury in the higher courts (Circuit Court or the Central Criminal Court).

2.4 Court Case Categories

There are two categories of court cases in Ireland:

- Civil actions generally involve disputes between individuals, organisations, or the State, usually for some form of compensation or rectification of matters concerned. Examples include personal injury claims, disputes over right of access.
- Criminal prosecutions are handled by the State, usually by the Director of Public Prosecutions. They deal with matters considered illegal, for example customs offences or tax evasion. The aim of the criminal law is to punish, usually through a jail sentence or a fine. Less serious offences are decided by a judge sitting on his/her own (summary offences). Serious criminal offences are tried by a judge and jury.

2.5 Court Structure



The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Chapter 3

General Guidelines on Enforcement Work

3 CHAPTER 3 General Guidelines on Enforcement Work

3.1 Authorisations

Revenue powers can only be exercised by officers who have been specially authorised for that purpose by the Revenue Commissioners. The Revenue Commissioners ensure that only suitable officers are authorised, that they receive appropriate training and instruction and that, through their identity card or other authorisation in writing, their authority is verifiable.

An officer's authorisation is set out on his/her Revenue authorisation identity card. The identity card contains the officer's name and photograph and the Revenue hologram. The card outlines the legislation for which the officer is authorised and bears a facsimile of the signature of the Revenue Commissioner by whom the officer was authorised. The officer may also have a separate written document which contains authorisation under other legislation.

Applications for Revenue authorisations (ID card and written authorisation) must be sent by the officer's Principal Officer with a brief outline as to why the officer requires the authorisation and its relevance to the officer's role.

Revenue ID cards and paper authorisations should be kept safely by the holder. If lost, it should be reported immediately to the officer's line manager.

Where an officer is transferring, retiring or leaving Revenue, and no longer requires it, the officer should return the authorisation to Corporate Services Division via his/her Divisional Office.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Note: A person who impersonates an officer of the Revenue Commissioners commits an offence under section 1078 (1B) of the Taxes Consolidation Act 1997.

3.2 Dealing with the Public

When dealing with the public, officers must show courtesy, consideration and fairness. High standards of professionalism must always be displayed, even in difficult and provocative circumstances.

The following guidelines should be followed to assist officers in dealing with the public in a professional manner and avoid unnecessary confrontations:

Identification: At the outset an officer should always identify himself/herself, produce an identity card and state that s/he is a Revenue officer. An identity card should not be handed over but should be shown in such a way that it can be read by the relevant person(s).

Dress/appearance: Officers should always be neatly dressed and should wear the appropriate uniform on occasions where it is necessary to do so.

Using a balanced approach: To avoid being accused of using an overwhelming approach, only the number of officers considered necessary should be used to perform checks or challenges. If more than one official is required, only one officer should perform the questioning, where possible.

Using a calm and respectful approach: The public should be dealt with in a calm, courteous, respectful and fair manner. Officers should be careful to ensure that their actions and words are not interpreted as off-hand, insensitive or provocative. Officers should make allowances for the anxiety a person may experience when challenged. Officers should always remain calm, attempt to bring control to a contentious situation and should never react or respond to provocative remarks. A key element of undertaking enforcement work is ensuring that tasks are completed with minimum confrontation and maximum professionalism.

Pre-determination: Officers should never assume or be seen to assume that a person may be guilty of an offence. The formation of an opinion on where guilt lies should only occur after the necessary enquiries have been conducted.

Sensitivity: Using a professional and sensitive approach can turn a potentially unpleasant encounter into a successful outcome. When placed in a difficult situation an individual may become tense and an insensitive word or attitude can easily lead to complications, accusations or complaints.

3.3 Organising Case Work

The following general guidelines apply in relation to the handling of cases:

- A case officer should be appointed to each investigation. This officer will be responsible for completing the investigation and overseeing the case through the legal processes.
- When managing a case or planning an operation, case officers should consider the concept of whole case management and take account of any other taxes that may be subject to investigation i.e. if the offender also has responsibility for other taxes, particularly fiduciary taxes such as VAT.

- When practical, it is advisable to operate in teams of two officers.
- When conducting questioning or a cautioned interview, it is best practice for one official to conduct the questioning and another to complete notetaking.
- When managing cases, use the minimum number of officers. This reduces the number of witnesses required for court appearances and mitigates the risk of being accused of using an oppressive approach.
- An exhibits officer, who has responsibility for taking custody of all exhibits that are to be produced in court, should be appointed. In most cases, the case officer and exhibits officer will be the same person. However, in a large-scale case, a separate exhibits officer may be necessary.
- The custody of exhibits should be confined to one officer. If circumstances require that more than one official has custody of an exhibit, the statements and reports must demonstrate the chain of custody passed securely from one officer to another.

3.4 Safety and Security Considerations

Officers should operate within the terms of the applicable safety instructions and procedures while on enforcement duties. Consideration should be given to road safety matters. Listed below are some general pointers which are not intended to constitute an exhaustive set of guidelines or to take the place of any existing instructions:

- At all times officers have a responsibility to avoid situations that are potentially dangerous or a health risk to either themselves or any other person.
- Officers should review the relevant Health and Safety Statement and be familiar with its contents. Local Health and Safety Statements can be obtained from your line manager.
- All vehicles stopped under the relevant provisions, should be approached with caution. The health and safety of officers and persons in the vicinity should always be taken into consideration. No officer should ever approach a vehicle head on.
- All accidents, incidents and cases of personal injury must be reported to the relevant line manager at the earliest opportunity.
- Immediate medical advice is to be sought in all cases of personal injury.
- When driving, an officer's primary consideration must be the safety of themselves and other road users. Revenue officers must exercise due care, always wear a seatbelt, avoid unnecessary speed and always observe the applicable speed limits.

The health, safety and welfare of Revenue officers and any other people in the vicinity must be the primary consideration when selecting a location for checkpoint duty. Key matters to consider are the suitability of the road and weather conditions and that advance-warning signs are erected to alert oncoming motorists including stationary amber flashing lights.

- The guidelines on carrying out roadside fuel testing must be adhered to. The necessary protective clothing and equipment e.g. gloves, eye protection, barrier cream, etc. should be used when handling samples of fuel and the chemicals used in the testing process.
- If an officer is obstructed in the execution of his/her duties, the officer must decide whether the situation has reached a stage where it would be prudent to withdraw rather than attempt to continue with the challenge. If an officer is obstructed in relation to the execution of powers relating to excise, officers should remind those present that a person may be guilty of an offence under section 1078 2(j) of the Taxes Consolidation Act 1997, if he/she obstructs or interferes with any officer of the Revenue Commissioners. Force should not be used by an officer in the line of duty. In cases of obstruction a report must be made at the earliest opportunity to the relevant line manager.
- If an officer is assaulted while in the execution of his/her duty, the officer should not use more force than may be necessary for self-protection. An urgent report on any such incident should be made to the officer's line manager for consideration of the instituting of legal proceedings against the offender. In all cases of assault, the officer should report and make a statement to Gardaí and seek medical assistance if appropriate.

3.4.1 Garda Assistance

It is an officer's right as an ordinary citizen to request the assistance of An Garda Síochána, and under Section 906 of the Taxes Consolidation Act 1997, an officer may be accompanied by a member(s) of An Garda Síochána when entering any premises or place and such Garda may arrest without warrant any person who obstructs or interferes with the authorised officer in the exercise of his/her powers or duties.

3.4.2 Security of Goods Seized/Detained

Officers should ensure that any goods or property detained, seized or retained locally are protected from damage, are held in safe custody and do not pose a risk to any persons in the vicinity. In particular, the necessary steps should be taken to guard detained or seized vehicles against potential weather damage (such as those caused by freezing conditions) or any other damage. See [Chapter 6](#) – Management of Seized Goods.

3.5 Notetaking

A professional, disciplined and consistent standard of notetaking is an essential part of enforcement work, particularly where notes or written observations may be used or relied upon in subsequent legal proceedings.

Notetaking should be carried out using an official *Revenue Notebook C&E 1110*. The following points should be noted:

- The notebook is a vital tool of an officer as it is a record of all the officer's actions in relation to any given case.
- An officer should normally operate only one notebook. However, a separate notebook may be used for each case or operation, if length and complexity justify this.
- The name and rank of the officer, together with the date that the notebook was taken into use should be inserted on the front external cover of the notebook. The notebook should be numbered on a sequential basis.
- All entries should be legible and the notebook itself should be kept neat and clean. Entries should be made in pen, preferably blue, in sequence on successive pages.
- Entries should be signed and dated.
- Notes relating to a separate offence/incident should commence on a new page as a Judge may wish to hold the notes as an exhibit during legal proceedings.
- It is not usually possible for an officer to compile comprehensive notes that cover every aspect of a case. However, officers should ensure that all important aspects of an investigation are recorded, particularly any details which may become relevant in subsequent legal proceedings.
- An officer should be the only person to write in his/her notebook, except where an entry is corroborated by another officer or where a person who has been interviewed signs and/or initials the notes of the interview.
- When the notebook is complete, the front cover should be completed by the insertion of the date that it is taken out of use. It should then be retained safely for a period of 10 years by the officer, regardless of whether the officer has changed function or transferred Divisions.
- If an officer retires, the officer's notebooks should be retained in the local office. The notebooks will be made available to the owner of the notebook if/when the need arises, for example, if the officer is recalled to give evidence in a court case.

3.5.1 What to avoid when using notebooks

The following should be avoided when using notebooks:

- Never tear out a page of a notebook as it may imply that you have something to hide.
- Avoid blank pages or spaces as it could be construed that the space was left so that additional text could be inserted later under the pretence that it was inserted contemporaneously. Where entries in a notebook, referring to a particular incident, do not require the full use of the page or the next facing page, the unused portion should be rendered unusable by drawing a diagonal line from the last word of the entry to the end of the unused portion.
- Do not erase entries in a notebook. Never use erasers, correction fluid or correction rollers on a notebook. If a genuine error is made, it should be crossed out with a single line, an initial should be entered where the error occurs, and a correction should be inserted.
- No alterations, additions or amendments may be made to notes once they are written up, and notes should never be rewritten.

3.5.2 Contemporaneous Notes

Notes are to be made contemporaneous to the occurrence being recorded. In instances where notes are not made contemporaneously, the reasons why the notes were not made contemporaneously should be outlined at the conclusion of the note. Notes that are not taken contemporaneously should always be completed within 24 hours of the incident occurring.

3.5.3 Security of Notebooks

The security of notebooks is vitally important, and the following points should be noted:

- Notebooks should always be stored securely and should never be left out on your desk or left lying around;
- Briefing details relating to an operation should not be inserted in a notebook;
- A Revenue officer should not insert personal details or the personal details of a colleague in a notebook.

3.5.4 Notetaking at an interview

Accurate notes are an essential part of every interview. Where possible, one officer should ask the questions and another officer should note the replies.

The following details, together with points required to prove an offence, should always be included: (this list is not exhaustive)

- The date, time and location of the interview;
- The names of all persons present;
- The time the interview begins and ends, including the times of any breaks or arrivals/departures from the interview;
- The identity, date of birth and address of the alleged offender or any other person being interviewed;
- The details of any caution issued;
- The legislation under which an officer is acting and the suspected offences being investigated;
- The details of any questions asked and responses received;
- The details of any evidence uncovered or produced as part of the interview process.

An interview may be recorded in a notebook or on separate pages. A pre-planned interview is best recorded on separate pages. At the end of the interview process, the interviewee should always be invited to sign the notes taken of the questions asked and the answers received. If s/he declines to sign the notes, the officer should record that fact.

3.5.5 Using notebooks in court

If an officer is required to provide evidence in court, the officer may refer to a notebook to refresh his/her memory on a particular matter provided the Judge is in agreement. In advance of providing evidence, an officer should review and be familiar with his/her notebook so that s/he can readily locate each entry and avoid any unnecessary delays in court. An officer is not permitted to give an account by reading directly from his/her notebook as the officer should be able to provide evidence from memory.

Notebooks are liable to be called for in court and any relevant entries may be examined by the Judge or legal personnel. An officer may be closely and meticulously questioned on the contents of his/her notebook. To stand up to close courtroom scrutiny, it is important that entries are free from erasures and made in a prompt, clear and accurate manner. Inaccurate or unreliable details may attract criticism and may cast doubt on the veracity of any evidence provided by the officer.

The Judge may wish to retain the notebook during the court hearing for reference and exhibit purposes. Accordingly, notes should be kept in such a way as to ensure that they may be examined in isolation from the notes of any previous or subsequent cases.

3.6 The Judges' Rules

The Judges' Rules are a set of administrative directions for the guidance of law enforcement agencies in the questioning of suspects. The rules are intended to ensure the fair administration of justice and are considered when deciding whether an admission made by an accused person is admissible as evidence in court.

The Judges' Rules are not rules of law but law enforcement officers are expected to comply with them. If there has been a failure to comply with the Judge's Rules, a trial judge has discretion to exclude any related evidence.

Although originally directed at the police, the principles involved apply equally to all law enforcement agencies including Revenue.

The nine Judges' Rules are as follows:

1. When an officer is endeavouring to discover the author of a crime there is no objection to his putting questions in respect thereof to any person or persons, whether suspected or not, from whom he thinks that useful information may be obtained.
2. Whenever an officer has made up his mind to charge a person with a crime, s/he should first caution such person before asking him/her any questions, or any further questions, as the case may be.
3. Persons in custody should not be questioned without the usual caution being first administered.
4. If the prisoner wishes to volunteer any statement, the usual caution should be administered. It is desirable that the last two words of such caution should be omitted, and that the caution should end with the words 'be given in evidence'.
5. The caution to be administered to a person, when s/he is formally charged should therefore be the following words:

'Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence'.

Care should be taken to avoid the suggestion that his/her answer can only be used in evidence against him/her as this may prevent an innocent person making a statement which might assist in clearing his/her name.

6. A statement made by a prisoner before there is time to caution him/her is not rendered inadmissible in evidence merely because no caution has been given, but in such a case s/he should be cautioned as soon as possible.

7. A prisoner making a voluntary statement must not be cross-examined, and no questions should be put to him about it except for the purpose of removing ambiguity in what s/he has actually said. For instance, if s/he has mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of month which do not agree, or has not made it clear to what individual or what place s/he intended to refer in some part of his statement, s/he may be questioned to clarify the point.
8. When two or more persons are charged with the same offence and their statements are taken separately, the enforcement officer(s) should not read these statements to the other person(s) charged, but each person should be given by the police a copy of such statements and nothing should be said or done by the police officer(s) to invite a reply. If the person charged wishes to make a statement in reply the usual caution should be administered.
9. Any statement in accordance with the above rules should, whenever possible, be taken down in writing and signed by the person after its contents has been read to him/her and s/he has been invited to make any changes or corrections to the text.¹

3.6.1 Issuing a caution

The standard caution to be administered is:

“You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence”.

The caution is seen as underpinning the constitutional right to silence. Rule 2 outlines that where an officer has decided to charge a person with an offence the officer must caution the person before asking any further questions.

Several court judgements have outlined the importance of administering a caution in a timely fashion. In *People (DPP) v Breen (1995)*, the court held that a caution should be administered as soon as an officer knows or ought to know that the suspect is likely to be on the threshold of admitting some involvement in an offence and that a failure to do so violates the requirements of basic fairness. The *Breen* case demonstrates that in certain situations, it may be necessary to issue a caution earlier than is outlined in Rule 2 of the Judges’ Rules.

3.6.2 Recording a statement

Under Rule 9 any statement that is made in accordance with the Judges’ Rules should be taken down in writing and signed by the person that is making the

¹ When a person is being interviewed, every effort should be made at the time to have him/her sign the record of the interview. Where this is not feasible because of the particular circumstances or conditions under which the interview was held, then a further effort should be made at the earliest opportunity, a reference being made to the reason why it was not possible to comply with this requirement on the earlier occasion.

statement after it has been read to the person and s/he has been given the opportunity to make any alterations or corrections to the statement.

3.6.3 Recording an interview

When a person is being interviewed every effort should be made at the time to have him/her sign the record of the interview. Where this is not feasible because of the circumstances or conditions under which the interview was held, then a further effort should be made at the earliest opportunity. The reason why it was not possible to comply with this requirement on the earlier occasion should be inserted. A note should be recorded on foot of an interview that the interviewee was offered an opportunity to sign the notes as a true reflection of the interview. If the interviewee declines to sign the notes, this must be recorded. The interviewing officer must also sign their notes and a second officer, if present, must co-sign.

3.7 Questioning and Caution

3.7.1 General

The questioning of witnesses and other persons with a view to obtaining information or evidence is an essential part of an enforcement officer's role.

An officer may also question an individual for the following purposes:

- Conducting an investigation;
- Enabling the officer to form an opinion as to whether an offence has or has not been committed;
- Affording the person an opportunity to explain his/her involvement in the particular transaction;
- Providing corroboration of other statements;
- Identifying the person(s) against whom proceedings should be instituted.

Questioning should endeavour to establish all the facts of the case and not merely incriminating details. Any information gathered through questioning can be challenged and verified later.

A person who is likely to be charged with an offence should be clearly informed of what is being alleged and asked for an explanation, under caution where necessary.

3.7.2 Types of Questioning

The questioning of a person falls into two distinct categories:

- I. **General right to conduct questioning:** By virtue of the Judges' Rules ([see section 3.6](#)), there is a general right to conduct questioning. Accordingly, an officer can question anyone, whether suspect or not, from whom the officer thinks that useful information may be obtained. There is no obligation on the person to answer and the normal rules concerning the issuing of a caution apply. The individual has the right to remain silent throughout the course of questioning irrespective of whether a caution has been issued.
- II. **Specific right to question to conduct questioning:** A specific right to question is contained in various legislative provisions that are set out at [section 4.9](#). These provisions provide an officer with a specific right to question certain individuals on certain matters. In some instances, there are specific penalties for not answering or providing the information sought. In such circumstances the statutory obligations of the person being questioned should be explained to him/her.

Evidence obtained during questioning where a caution has not been issued cannot be solely relied upon to obtain a conviction as the court is likely to rule that the accused was denied natural justice through self-incrimination. Evidence that is obtained during questioning where a caution has not been issued may be admissible as corroborating evidence in support of other primary evidence, at the discretion of the presiding judge. Therefore, having issued a caution, an enforcement officer should endeavour to obtain as much evidence as possible.

3.7.3 Standard Procedures

At the outset, officers should establish the identity of the person(s) being questioned. This can be done by the provision of a passport, driver's licence or other relevant documentation. In cases involving motor vehicles the production of documentation demonstrating possession/ownership of the vehicle should be requested.

Ideally, two officers should be present when conducting an interview or questioning a suspect. An officer should not conduct an interview alone unless in exceptional or unavoidable circumstances. In some circumstances it may be necessary for more than two officers to be present, for instance if there is a threat of violence. However, in normal circumstances having more than two officers present may be interpreted as being intimidating to the person being interviewed and may lead to unnecessary additional statements and court attendances.

The guidelines in relation to notetaking at [section 3.5](#) should be fully observed. The times of the commencement and completion of an interview, together with the names of those present, should be noted. If a person joins or leaves an interview or leaves the room or vicinity temporarily then the person's name and the time of the arrival and/or departure should be recorded in the notes.

3.7.4 Issuing a Caution

Evidence may be obtained under caution by means of oral and/or written statements. As far as is possible, evidence should be obtained under caution as evidence acquired under questioning where a caution has not been issued cannot be solely relied upon to obtain a conviction.

If during questioning, matters have reached a stage where an officer knows or considers that the suspect is likely to be on the threshold of admitting some involvement in an offence, the person must be cautioned by using the following phrase -

“You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.”

The person should always be asked if s/he understands the caution and the reply noted.

Officers should always appreciate the need to caution a suspect at an early stage in accordance with the Judges’ Rules and case law as this ensures compliance with basic fairness and voluntariness and makes it clear to the person that s/he is not obliged to incriminate him/herself.

The wording of a caution in other languages is provided at [Appendix 1](#).

Care should be taken to ensure that the person understands the caution and, if necessary, it should be repeated and explained. Once a person has been cautioned the officer should never allow that person to make any ‘off the record’ comments.

It may be necessary during a questioning session to remind a person on several occasions that s/he is still under caution. Examples of these occasions are:

- On resumption of questioning where the interview was suspended;
- On the arrival of an officer either to replace or join an officer who was already conducting the interview.

If a person is to be questioned for a second time (for instance on the next day or where questioning was terminated) then a caution should be re-administered in full.

3.8 Search Warrants

3.8.1 Applying for a Search Warrant

The decision to issue a search warrant must be taken by the Judge of the District Court. A search warrant is normally issued by a Judge of the District Court for the district in which the warrant is to be executed. Where this arrangement is not feasible, a warrant may be issued by a Judge in another district in any place in the State.

In subsequent proceedings it may be necessary to satisfy a court that the Judge who issued the warrant was in possession of all relevant information when making that decision. It is essential, therefore, that all relevant information is provided in the information on oath that is given by the officer applying for the search warrant.

The information to be sworn when applying for a warrant should be presented in written form to the Judge of the District Court. Specimen information and search warrant templates are available at [Appendix 3](#).

The information should not disclose any material or data received from a confidential source. However, the information may confirm that the source is reliable and/or has previously provided reliable information. The phrase normally used in this regard is “based on information from a confidential and reliable informant.”

If there is not enough space to write all the information in the space provided, it may be continued on the back of the form or on a separate sheet(s). In such cases, always ensure that the Judge of the District Court signs and dates the additional page(s) to show that s/he has read these pages before issuing the warrant.

Always check the information and warrant to ensure that they are signed and dated correctly and that any deletions or changes have been initialled. The information and the warrant should specify the goods and/or other items being searched for.

Ensure that the names and addresses on the information and warrant documents are correct and are spelled correctly.

If goods are found which are not specified on the warrant and reasonable suspicion exists that such goods are essential as evidence in proving that a criminal offence has been committed, then an additional warrant should be obtained. In exceptional circumstances e.g. where there is serious risk that the goods may be removed or destroyed, then the goods may be detained under the appropriate legislation and removed without procuring an additional warrant.

The oath/affirmation to be sworn is: **“I swear/promise that I will true answers give to all questions put to me concerning this information”**.

The information should be lodged with or forwarded to the District Court Clerk for filing and a copy should be retained by the Revenue officer.

If it is noticed that the warrant is incorrect in any way, then a new application must be made to the court. A faulty warrant cannot be executed and under no circumstances should any alterations be made to a warrant after it has been issued.

No original documents or exhibits should be placed in a prosecution file. Exhibits must be retained securely, and copies placed on file.

3.8.2 Executing Search Warrants

Most warrants may be executed at any time within one month of the date of issue. There should be no avoidable delay in executing the warrant. If the circumstances which originally justified the issue of the warrant have changed, then a new application for warrant should be made.

When executing a search warrant, the following factors should be considered by the officer concerned:

- The search warrant should be produced for inspection by the owner/occupier of the premises.
- The warrant must be executed by the officer to whom it was issued.
- The extent of search authorised by the warrant may not be exceeded.
- If circumstances permit, the owner/occupier of the premises should be invited to accompany the search team.
- Where possible, officers should work in teams and avoid being left alone in any part of the premises.
- During the search, officers must avoid all unnecessary damage to property and goods including furniture and fittings.
- After executing the warrant, the warrant holder should make a note of the date and time that the action occurred. The warrant holder must be the last to leave the premises and must note the date and time the premises is vacated by all involved in the search.
- The executed warrant and a copy of the information must be placed on the prosecution file and retained as an exhibit.

Once the premises have been vacated, a new warrant must be obtained for any subsequent search of the premises to occur.

3.8.3 Recording Search Warrants

Each enforcement unit should maintain a local record of all search warrants issued and executed. A note should be kept of the legal provision under which each warrant was granted. In each instance, a copy of the information and the warrant should be retained.

3.9 Evidence

3.9.1 General

Evidence is provided by a case officer to help prove a prosecution case. Evidence may consist of records, documents, objects or the testimony of witnesses. In each investigation the evidence required and/or available will differ. In some instances, such as smuggling cases, an entire transaction may be undocumented both in Ireland and in the exporting country. In such cases, it is possible that the only evidence produced by enforcement staff will be statements made by the officials who witnessed the illegal importation. In such instances evidence must be produced to prove that the goods were liable to duty and/or subject to prohibition/restriction at the time of importation/exportation.

3.9.2 Types of evidence

The main types of evidence presented in a case will normally consist of:

- I. Oral evidence
- II. Documentary evidence
- III. Real evidence
- IV. Direct evidence
- V. Circumstantial evidence
- VI. Hearsay evidence.

I) Oral evidence

Oral evidence is the testimony given by a witness in court. Oral testimony is normally based upon a previously submitted statement, affidavit or report that is contained in the book of evidence. It is not normally permissible for a witness to give evidence that is not contained in his or her statement. It is therefore important that the witness statement contains a full and accurate account of all the relevant facts.

Testimony should not include anything of a derogatory or prejudicial nature and, when providing evidence, a witness should not refer to an accused's bad character or previous convictions.

Confession evidence i.e. evidence resulting from a confession by the accused, is an exception of the hearsay rule. This is admissible as evidence in criminal proceedings. However, in such circumstances the courts will want to ensure that the confession:

- Was given freely and voluntarily;
- That a breach of the accused's constitutional rights did not occur;
- That the confession was obtained in accordance with the Judges' Rules (see section 2.6).

A statement made by a third party will only be admitted in evidence where the third party provides evidence as a witness. This rule further provides that a witness may only speak as to facts observed, and not as to inferences drawn from these facts.

An expert witness is a person who is accepted by the Judge as an expert by virtue of his/her education, training, certification, skills or experience. In general, a witness should only testify as to the facts but an expert witness may give an opinion based on his/her expertise.

The spouse of an accused cannot be compelled to serve as a prosecution witness in any criminal proceedings, but there is nothing to prevent a spouse serving as a voluntary witness.

II) Documentary Evidence

In general, documentary evidence consists of any documents that allow the court to derive evidence from the inspection of the document.

A party seeking to introduce documentary evidence must, with few exceptions, demonstrate:

- Proof of contents i.e. that it is an authentic document;
- Proof of due execution, through corroborating evidence to prove that the action referred to in the document actually happened.

A party seeking to rely on the contents of a document must present primary evidence of those contents. In practice, this is done by producing the original document in question. Photocopies or other secondary evidence will only be permitted if production of the original is physically or legally impossible e.g. if it has been destroyed. A chain of custody needs to be proven for documentary evidence.

Below are lists of common examples of documentary evidence used in Customs and Excise cases. These lists are not exhaustive.

Common examples of documentary evidence used in Customs and Excise cases may include the following:

- Customs declarations;
- EMCS documents;
- T1 and T2 forms;
- application(s) for authorisations or import/export licences;
- previous Customs declarations for the same trader and/or goods;
- company registration details;
- VAT registration forms;
- PAYE details.

Common examples of documentary evidence provided by commercial sources include:

- purchase contracts;
- purchase orders;
- suppliers' invoices;
- correspondence between a consignee and supplier;
- purchaser's records of payment;
- credit/debit notes;
- bills of lading;
- airway bills;
- warehouse records.

Common examples of documentary evidence provided by the investigating team include:

- copies of notices of seizure;
- results of analysis by the State Laboratory or other body;
- records, statements, notes of interviews, photographs, information and search warrants;
- evidence of custody and continuity of any seized/detained goods.

In some instances, it may be necessary to substantiate documentary evidence by providing a witness statement e.g. where a penalty is based on the value of the goods (treble duty-paid value). If a value cannot be proven by available documentary evidence, then the goods must be valued by an expert who should provide an expert witness statement ([see section 3.12.1](#)). In routine tobacco product cases i.e. smuggling by private individuals, the case officer may provide a valuation for prosecution purposes after consulting the cigarette manufacturer's retail selling price lists. In the case of lesser-known brands, the case officer may provide a valuation based upon the Department of Health's minimum retail prices for cigarettes.

III) Real Evidence

Real evidence is tangible evidence, other than documents, that can be produced and inspected in court. Real evidence is produced in court as an exhibit. Seized goods or samples of seized goods are examples of real evidence. A chain of custody needs to be proven in instances where real evidence is used.

IV) Direct evidence

Direct evidence is testimony concerning a fact which was actually perceived by a witness by using one of his or her senses. The following is an example of direct evidence -

The fact in issue is whether X stole Y's purse. Z's evidence that he had observed X putting his hand in Y's pocket and taking out a purse may be presented as direct evidence of X having appropriated Y's property.

IV) Circumstantial evidence

This is evidence of some fact not actually in issue, but relevant to a fact in issue, from which a fact in issue may be inferred. An example of circumstantial evidence is as follows:

X is accused of Y's murder by shooting. Z says that he saw a revolver in X's possession shortly after Y's death. Z's evidence is direct evidence as to X's possession of a revolver; it is no more than circumstantial evidence relating to the fact in issue, namely whether X shot Y with that weapon.

VI) Hearsay evidence

Hearsay evidence is not admissible except in very exceptional circumstances. The rule against hearsay provides that:

"A statement, other than one made by a person while giving oral evidence in the proceedings, is inadmissible as evidence of any fact stated."

Accordingly, a statement made by a third party will only be admitted in evidence where the third party gives evidence in person as a witness. This rule further provides that a witness may only speak as to facts observed and not as to inferences drawn from these facts. A witness appearing as an expert witness may give evidence of his or her opinions.

Confession evidence is an exception to the hearsay rule where the accused made a statement in writing but does not give oral evidence. This is admissible as evidence in criminal proceedings. In such circumstances, the courts will want to ensure that the confession was given freely and voluntarily, that there was no breach of the accused's constitutional rights and that the confession was obtained in observance of the Judges' Rules.

3.9.3 The suppression of evidence

There are no circumstances that justify the suppression of any piece of evidence. An officer's report must include all evidence of every type even if some of it weakens the case being made.

3.9.4 The chain of custody of evidence

When goods or documents are seized, it may be necessary to produce them in court at a later date. In such circumstances it is necessary to prove that there was no interference with the exhibits and that they are the same goods or documents that were seized by the case officer.

The prosecution must be able to demonstrate continuity in the chain of evidence. This means that a witness statement must be taken from each officer who had possession of, or dealt with, the evidence in question. If the chain of custody is not

demonstrably linked at each stage, it is open to the defence to claim that the evidence may have been contaminated, tampered with, substituted, removed or otherwise interfered with, at the point where the chain had been broken. A proper record of the chain of custody will reduce the likelihood of such a challenge.

The prosecution must also prove that the evidence was always secured and access to that evidence could not have been available to parties other than those stated in the book of evidence. The record of the chain of custody will support this. For this purpose, enforcement offices provide case officers with secure rooms, cabinets and safes where all evidential material should be secured. Any secure rooms, cabinets and safes should be locked to ensure that evidence is not interfered with.

The following points should be noted regarding the chain of custody of evidence:

- The case officer, or a separate exhibits officer where one is appointed, is responsible for the proper identification and custody of all exhibits.
- An officer should ensure secure custody of any goods or documents removed from premises that are likely to be needed in evidence. Working copies should be made of all such documents.
- If it is necessary to store goods temporarily, the officer with custody of the goods should arrange for secure accommodation, preferably an official safe. Nobody, other than the officer with custody of the goods or somebody to whom custody has been properly transferred, should have independent access to the evidence.
- An officer should always obtain and retain a receipt when transferring custody to another person.
- When taking over custody, even for a short temporary period, an officer should always check that all the goods are present before issuing a receipt.
- Original documentary exhibits should never be placed in the case file. They should be retained by the case officer.

3.9.5 The admissibility of evidence

It is vitally important that all evidence which is central to a case is admissible in proceedings. If evidence is ruled to be inadmissible, it will not be put to the jury which may damage the case for the prosecution. When a case goes to trial, the defence is likely to test the admissibility of the evidence.

Evidence is inadmissible if it is:

- Irrelevant or not material;
- Has been obtained unconstitutionally, other than in the circumstances as set out in section 3.9.6 below;
- Infringes any of the rules of evidence e.g. the rule against hearsay evidence or if the evidence was obtained illegally.

3.9.6 Evidence unconstitutionally obtained

The courts have determined that they not only have an inherent jurisdiction but a positive duty to protect persons against an invasion of their constitutional rights. Therefore, evidence which has been obtained in breach of an individual's constitutional rights will be ruled as inadmissible unless the prosecution can prove, to the satisfaction of the court, that the breach of constitutional rights was committed unintentionally or accidentally, or where the court is satisfied that there are 'extraordinary excusing circumstances' which would justify the admission of the evidence. Officers should take extreme care to ensure that the constitutional rights of the taxpayer are not violated.

3.9.7 Evidence illegally obtained

The admissibility of evidence illegally obtained will be determined by the trial Judge in the course of the proceedings. In exercising his or her discretion, the Judge will take into account whether the illegal act was intentional or unintentional, whether it represented a settled or deliberate policy, and whether the illegality was of a trivial or technical nature.

An officer failing to comply with a legal requirement would constitute an illegal act and any evidence obtained as a result of such an act is likely to be ruled as inadmissible. For example, section 134 of Finance Act 2001 provides that an officer in uniform may stop a vehicle. If an un-uniformed officer stopped and searched a vehicle, any evidence obtained as a result of the search is unlikely to be admissible in court.

3.9.8 Competence and compellability of witnesses

A general rule of common law is that all persons are competent (acceptable) and compellable in any criminal proceedings. There are certain exceptions:

- An accused person is not competent as a witness for the prosecution, but he/she can appear as a witness for the defence if s/he chooses to do so.
- An accused person cannot testify for the prosecution against a co-accused charged in the same proceedings.
- The spouse of an accused person is not compellable as a witness for the prosecution under section 21 of the Criminal Evidence Act 1992.
- A former spouse of an accused person is not compellable as a witness for the prosecution in respect of offences which were committed while the marriage was in existence.

3.9.9 Disclosure – Privilege

Where an offence is being tried on indictment, there is an obligation on the prosecution to disclose to the defence all of the evidence it possesses that is relevant to the case, irrespective of whether or not it is intended to be used at the trial. When an indictable offence is being tried summarily, the defence will be entitled, in certain circumstances, to receive the statements of all prosecution witnesses.

Where a claim of privilege is upheld, certain information is not disclosed to the other side. The main categories of privilege are:

- Legal professional privilege i.e. legal advice provided by a solicitor to a client in connection with potential legal proceedings;
- Marital privilege;
- State or executive privilege.

State privilege is usually invoked where information has been received from a confidential source. It is open to the defence to apply to the court to have this information revealed. In this situation the Judge will make a determination after hearing submissions from both sides.

3.9.10 Standard of proof

In all criminal prosecutions the guilt of the accused must be proven 'beyond a reasonable doubt'. In civil cases, guilt must be proven 'beyond the balance of probability', which is a less stringent burden of proof.

This onus rests with the prosecution who must present evidence proving each ingredient of the offence with which the accused person is charged. The defence need not contribute to the proceedings and there is no obligation on the defendant to give evidence.

3.9.11 Summary

The totality of the evidence in a case, in the form of witness statements, documentary evidence and real evidence, will be reviewed and scrutinised to determine whether or not it is sufficient to refer the case to the Director of Public Prosecutions for possible prosecution. The evidence to be relied upon must be admissible and must demonstrate that:

- an offence has been committed;
- an accused has been identified;
- the accused has committed the offence;
- all the ingredients of the offence meet the required standard of proof.

If a reasonable doubt is raised by the defence during a trial, the accused is entitled to the benefit of that doubt. If two different views of the case are possible on the evidence, the court/jury is obliged to adopt the view which is favourable to the accused.

3.10 Arrest and Charge

3.10.1 General

When dealing with Revenue offences, the arrest of a person is only warranted as an exceptional measure and in exceptional circumstances. Accordingly, the power of

arrest must be exercised in strict conformity with statutory rules and within the guidelines set by the Revenue Commissioners.

An arrest is a physical act done with a view to detention that denies a person of his/her liberty. Article 40.4.1 of the Constitution states that **“no citizen shall be deprived of his personal liberty save in accordance with (the) law”**. Consequently, an arrest must always be legally permissible, justified and proportionate to the circumstances of the case.

The act of arrest with a view to subsequently charging a person with an offence is part of a legal process designed to ensure the appearance in court of the accused. A person brought before a court will appear on foot of a summons or will have been subject to an arrest (with or without a warrant). The use of a summons for such purposes is favoured by the DPP and should be used whenever possible. The power of arrest should only be used where it is considered necessary to secure the appearance before the court of the person accused of an offence.

Provision for the arrest of person is contained in a number of different enactments and these are set out in detail in [section 4.17](#)

3.10.2 Relevant Legislation

Section 139(1) of Finance Act 2001, as amended, provides that, where an officer of the Revenue Commissioners has reasonable grounds to suspect that a person is committing or has committed an offence under -

- section 119 of Finance Act 2001,
- section 102(3) of Finance Act 1999, or
- section 79(5) of Finance Act 2003,

then the officer may arrest that person without warrant.

Section 139(2)(a) of Finance Act 2001 provides that where an officer of the Revenue Commissioners has reasonable grounds to believe that a person is committing or has committed an offence under section 78 of Finance Act 2005,

then the officer may detain that person and, as soon as practicable thereafter present the person, or bring and present the person to a member of An Garda Síochána.

In the context of section 139 of Finance Act 2001, “officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred on them by Chapter 4 of Part 2 of Finance Act 2001.

Section 32 of the Customs Act 2015 provides that where an officer of customs has reasonable grounds to suspect that a person is committing or has committed an offence under-

- section 14 of the Customs Act 2015,
- section 15 of the Customs Act 2015, or
- under any provision of the Taxes Consolidation Act 1997 that provides that it is an offence to assault an officer of customs,

the officer may arrest that person without warrant.

In the context of section 32 of Customs Act 2015, “officer of customs” means an officer of the Revenue Commissioners authorised by them under section 37 of Customs Act 2015 to be an officer of customs.

3.10.3 Circumstances in which arrests arise

In practice, a decision to arrest should only be made where the officer has reason to believe that the person will abscond and fail to turn up for trial. Factors to consider in arriving at such a decision include the following:

- The offence is of an extremely serious nature;
- The strength of the evidence available against the accused;
- The person accused of the offence resides outside the State or is considered to be a flight risk;
- The penalty which may be imposed by the court for the offence concerned.

A decision to arrest a person should only be taken following consultation with the Revenue Solicitor’s Division who will usually discuss the matter with the DPP. In instances where such consultation is not possible or practicable, for instance at night or at weekends, the relevant Principal Officer must be consulted.

In practice, arrests may be justified in the following instances:

- In cases where drug detections are considered by the officer to be of a commercial quantity. the National Liaison Unit of the Intelligence Management Branch in Investigation, Prosecution and Frontier Management Division (IPFMD) must be contacted immediately so that the protocols under the Memorandum of Understanding between Revenue and An Garda Síochána can be implemented. Jurisdiction of arrest will be decided in consultation with the Garda National Drugs and Organised Crime Bureau.
- In some cases of commercial smuggling involving serious evasion of customs or excise duties.
- In instances of serious evasion of import prohibitions or restrictions.
- Where serious evasion of an export prohibition occurs.
- In certain oil laundering cases where the offender is not a State resident.
- In certain cases involving the production or processing of illicit alcohol where the offender is not a State resident.

3.10.4 Arrest Procedure

An arrest consists of the touching or seizure of a person's body with a view to detention. The mere pronouncement of words is not an arrest. Therefore, an arresting officer should identify himself/herself, if this has not already been done, place his/her hand on the person's shoulder and state:

“You are under arrest; a charge will be preferred against you, you are not free to go”.

When a person is arrested, s/he must be notified of the reason for the arrest. This should include details of the relevant legislation.

The arrested person must be taken as soon as is practicable to the nearest Garda Station within the area of the District Court having jurisdiction for the place where the accused was arrested. The officer should identify him/herself to the Member-in-Charge and inform him/her that the person is under arrest and is to be charged with an offence.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.10.6 Charge sheet

The wording of the charge is a matter for the arresting officer. The charge will normally be preferred in the arresting officer's name, unless the DPP has consented in advance to the charge being preferred in his/her name. Specimens of charges relating to the more common offences are included at [Appendix 2](#). Three copies and the original fully completed charge sheet should be made and managed as follows:

Original	This is the arresting officer's charge sheet for presentation in court.
First Copy	This copy is to be issued to the arrested person.
Second Copy	This copy should be retained by the arresting officer to record the responses of the accused person to the charges brought against him/her.
Third Copy	This copy should be retained by the Member-in-Charge at the Garda Station.

Section 34(4) of Finance Act 1963 requires that an estimated value of the goods must be stated on the charge sheet in relation to offences under section 119 of the Finance Act 2001 or section 14 of the Customs Act 2015. The estimated value is

defined as the price which goods might reasonably be expected to fetch, after payment of any duty chargeable, if they had been sold in the open market around the time of the offence. The value quoted should be based on a written valuation by a person experienced in dealing with the goods concerned. If it is not practical to obtain such a valuation, the officer's own estimate may be used.

When the charge sheet is completed, the charges should be read to the offender and s/he should be cautioned after **each** charge as follows:

“Do you wish to reply to the charge? You are not obliged to say anything unless you wish to do so but whatever you do say will be taken down in writing and may be given in evidence”.

Anything the accused says in reply to the charge(s) should be recorded verbatim on the second copy of the charge sheet (which is retained by the arresting officer) even if the reply simply consists of “no” or “no comment”. The second copy of the charge sheet, which contains the recorded replies, should be included as an exhibit in the book of evidence. The original charge sheet should be retained by the arresting officer for presentation in court.

In certain circumstances, the Member-in-Charge of the Garda Station may release the arrested person on ‘station bail’. In practice, this will not normally occur in respect of a serious offence. The granting of such bail is entirely at the discretion of the Member-in-Charge. If station bail is granted, the officer should obtain a copy of the recognisance from the Member-in-Charge and present it with the original charge sheet to the Clerk of the District Court before the next sitting of the court.

Gardaí will make the necessary arrangements for the accused to be brought before the District Court. Where necessary, a special sitting of the court may be arranged where the arresting officer is required to inform the court of the circumstances of the arrest. On hearing the arresting officer's evidence, the Judge will decide whether to remand the accused person in custody or to release him/her on bail.

3.11 Reporting

3.11.1 General

Information concerning detections must be recorded on C-Net within 24 hours and reported to the National Prosecutions and Seizures Office (NPSO) within one month where the case may lead to the initiation of criminal proceedings or a 'valid claim' against the seizure has been lodged. If the case is of a serious nature and could be suitable for investigation with a view to prosecution on indictment, then a report should be submitted to the Prosecutions Admissions Committee for consideration.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Reports must contain sufficient detail of the relevant facts to quickly establish the likelihood of charges being brought against the person(s) concerned. An unjustified delay in any part of the investigation and/or prosecution process may compromise the chances of a successful prosecution.

3.11.2 Guidelines on providing a report

When reporting a detection, an officer who is in a position to speak authoritatively about the case should act as case liaison officer. This officer will be responsible for helping to guide the case through the investigation and prosecution processes.

The case liaison officer should prepare a comprehensive report that sets out the facts in chronological order and outlines the background, event(s) and investigation that took place along with any other relevant facts. Standardised report forms should be used where they are available.

The report should be based on the notes and case file assembled by the case officer during the course of the investigation. Any statements or reports provided by individual officers involved in the case should be consolidated into the report of the case officer.

The following points should be noted when compiling a report:

- The background of the case should be outlined. If the investigation originated from another officer's report or investigation, then this fact should be acknowledged.
- The basis for the suspicion or belief that an offence was committed should be clearly stated. If the suspicion or belief is based on confidential information from a reliable source, then that fact should be stated but information concerning the informant should not be provided. Information concerning an informant should never be included in a report ([see section 3.13](#)).
- Any information provided concerning dates, times and places must be accurate.

- The report should outline in full the specific details of the part played by any individual officer involved in the case.
- The report should contain the full details of any evidence obtained, the manner in which it was obtained and how it was retained.
- If providing details of any interviews and/or questioning of suspects, the report should include details of the date and time of the interviews, whether a caution was issued, a list of the persons present and the questions asked and responses received.
- Where checks have been carried out to verify the accuracy of information, the details of these checks should be provided i.e. if the case relates to prohibited/restricted goods, then checks should be made with the relevant licensing authority to verify that a valid licence had not been issued for the goods.
- Original documents should be retained by the exhibits officer and should not be enclosed with reports. Only copies of original documents should accompany reports.
- Each document in the report should be numbered for ease of reference.
- The details of legislation that is relevant to the case should be outlined.
- The report should contain a summary, a conclusion and recommendations on how the case should proceed.
- Complicated reports should include an index, headings and paragraph numbers to aid reading and navigation of the report.

A report should not include any of the following:

- Unsubstantiated allegations e.g. *“he is involved in drugs”*
- Hearsay e.g. *“a colleague said he was a criminal”*
- Unsubstantiated conjecture e.g. *“he was going to sell the wine”*
- Derogatory remarks e.g. *“he is a chancer”*
- Details of Informants e.g. *“John Smith told me that ...”*.

3.11.3 Additional statements of evidence

Where indictable proceedings are being brought, each officer involved in the case must provide a statement of evidence that outlines his/her involvement in the investigation. These statements will be included in the book of evidence.

In a summary case, the Judge may direct that the prosecution case is made available to the defence. In these circumstances, each officer involved in the case must provide a statement and the officer's statement, report and notes may be made available to the defence. As an officer's notes will form the basis of the officer's statement, the importance of disciplined, accurate and consistent note taking keeping cannot be over-stressed ([see section 3.5](#)).

3.12 Statements of Evidence

A statement of evidence is a formal written document that outlines a person's account of the facts of a case. A statement is provided under oath and is signed by the person providing the statement. A statement may only contain the admissible evidence that a person would be allowed to provide in court as oral evidence.

The three types of statement primarily used in a Revenue investigation are:

- Witness Statement;
- Revenue Officer's Statement;
- Cautioned Statement.

3.12.1 Witness Statements

A witness statement is a document containing a witness's account of the facts that provides corroborative evidence or information relevant to the investigation. The statement is signed by the witness to confirm that the contents of the statement are true.

In most cases, witnesses are willing to co-operate with an investigation by providing a voluntary statement. If a witness is unsure as to whether s/he wishes to provide a voluntary statement, a Revenue officer should carefully explain the reasons that the statement is required and that the witness is not being treated as a suspect. If the witness declines the opportunity to provide a statement, the Revenue officer should consult with his/her manager and possibly the Revenue Solicitor's Division to determine what options are available to advance the investigation.

In some circumstances, the furnishing of a statement by a witness may not be sufficient to prove the contents of the statement and the witness may be required to appear in court to provide oral evidence.

Where there are grounds to suspect that a person may have committed an offence, a Revenue officer should not treat the person as a witness but instead offer to interview the person under caution. If a witness becomes a potential suspect while taking a witness statement, a Revenue officer should stop the process and offer to conduct an interview under caution.

3.12.2 Expert Witness

An expert witness e.g. a valuer, may be asked to provide his/her expert opinion in a statement. An expert witness should always indicate his/her qualifications and/or expertise in a statement as this will determine his/her level of expertise.

3.12.2.1 Witness Statement under Section 21 of the Criminal Justice Act 1984

In certain circumstances, the NPSO may require a witness statement to be provided in accordance with Section 21 of the Criminal Justice Act 1984. In such circumstances the following declaration must be provided at the beginning of the statement-

‘This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true’.

This declaration enables evidence contained in the statement to be presented in court without the witness being required to attend in person to give direct, oral evidence.

3.12.2.2 The distinction between ‘information’ and ‘evidence’ from a witness

Care should be taken that ‘information’ is not confused with ‘evidence’. For example, information on company registration is a matter of public record that may prove useful in an investigation process. If information on company registration is to be produced in evidence, then a witness from the Companies Registration Office, who can speak authoritatively on the subject and can produce original documents, is required to furnish a statement and possibly appear in court as a witness.

3.12.2.3 Guidelines for obtaining a witness statement

The following are important points to note when obtaining a witness statement:

- The person providing the statement should state his/her name and relevance to the investigation e.g. position within a company, at the beginning of the statement, for instance -
 - ‘I (enter name) am the financial director of (enter company name and address)’
- The facts must be recorded in the first person singular so that they are specifically identified with the person providing the statement e.g. ‘I am...’, ‘I saw...’, ‘I asked...’ etc.
- Events should be set out in the order in which they occurred and should include sufficient detail to ensure that the account is accurate and free from ambiguity. Dates and times must be accurately stated, and the words and phrases used should be clear and concise and not open to different interpretations. Only details relating to the offence(s) covered by the investigation should be included
- All statements should be typed. The original should be retained by the case officer and a copy should be forwarded either with the case file or on request to the NPSO in respect of summary cases or Investigation and Prosecution Branch 1 in IPFMD in respect of indictable cases.
- Once a statement is signed, it can be recalled for amendment or the inclusion of additional information. If such a need arises, then a supplementary statement must be provided.
- A statement should conclude with the following declaration –
 - ‘I have read over this statement which consists of (enter number) page(s) and it is correct to the best of my knowledge and belief’.
- All statements must be signed and dated.

3.12.3 Revenue Officer's Statement of Evidence

A Revenue officer's statement is a written record of the information that the officer can provide concerning a case that is being investigated with a view to prosecution. Statements of evidence from all relevant officers, irrespective of whether the case is prosecuted as summary or on indictment, are required.

In an indictable case, the investigating officer's statement is one of the key elements of the prosecution case. This statement informs the authorities and the prosecution lawyers of the evidence that will be produced when the case is brought before the court. Revenue officers that are indirectly involved in cases e.g. the Tariff Classification Unit may also be required to provide statements.

It is crucial that the statement provides a summary of all the facts in an accurate manner and that enough detail is included to avoid any confusion or ambiguity. If an account recorded in a statement differs to the evidence provided by a witness, it may undermine the credibility of the witness and hinder the chances of a successful prosecution.

The Revenue Solicitor's Division or the relevant State Solicitor will review statements and may edit the statement to remove text or evidence that should not be included. For instance, a statement should not include hearsay, provide details of previous convictions, make a recommendation to prosecute or make a recommendation for payment of a reward. These matters should be included in a separate document. The edited statement will be included in the book of evidence and is a declaration of the evidence that the Revenue officer intends to produce in court against the accused person.

It is important to note that the original unedited statement is usually furnished to the defence. Any notes or reports that a Revenue officer may have made during the investigation will be made available to the defence should they obtain an order for discovery of documents.

a) Statement under Section 21 of the Criminal Justice Act, 1984

In certain circumstances, Investigation, and Prosecution Branch 1 (IPB1) may require a Revenue officer to provide a statement in accordance with Section 21 of the Criminal Justice Act 1984. The beginning of such a statement must include the following declaration -

'This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true'.

This declaration enables evidence to be presented in court without the officer having to attend in person to give direct, oral evidence.

b) Guidelines for preparing a Revenue Officer's Statement of Evidence

The following points are important to note when preparing a Revenue Officer's Statement of Evidence:

- The officer should specify that s/he was an Officer of Customs and/or an authorised officer of the Revenue Commissioners, on the date of the offence and in respect of any other period relevant to the offence. The statement should include the following text at the beginning of the statement -

'I (enter name), an Officer of Customs and/or an authorised officer of the Revenue Commissioners, stationed at (enter station).'

- The facts must be recorded in the first person singular so that they are specifically identified with the officer e.g. 'I am...', 'I saw ...', 'I asked ...' etc.
- Events should be set out in the order in which they occurred and should include sufficient detail to ensure that the account is accurate and free from ambiguity. Dates and times must be accurately stated, and the words and phrases used should be clear and concise and not open to different interpretations. Only details relating to the offence(s) covered by the investigation should be included.
- When making a statement, a Revenue officer should always outline the basis and/or evidence upon which his/her suspicions are founded.
- Statements should not include the name of an informant or any details that may lead to the identification of an informant.
- Statements must include the full details of any evidence held by the officer including when and how the evidence was obtained as well as how it was retained and/or disposed of.
- Statements should not include any unsubstantiated allegations, hearsay, conjecture, details of previous offences or derogatory remarks.
- Statements should be typed. The original should be retained by the case officer and a copy of the statement should be forwarded to IPB1 or the NPSO, depending on the nature of the offence, with the case file or when requested.
- Once signed, a statement cannot be recalled for amendment or the inclusion of additional information. If such a circumstance arises, a supplementary statement must be provided.
- A Revenue officer's statement should include the following declaration -

'This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true'.

- A statement should conclude with the following declaration -

'I have read over this statement which consists of (enter number) page(s) and it is correct to the best of my knowledge and belief'.

- All statements must be signed and dated.

3.12.4 Cautioned Statements

A caution is a formal warning given to a person suspected or accused of an offence that his/her words may be taken down and used as evidence. A cautioned statement is a statement that is provided voluntarily by a person suspected or accused of committing an offence after s/he has been cautioned. The following guidelines should be followed by Revenue officers when taking a cautioned statement:

- The use of pre-prepared forms should be avoided.
- The statement should begin at the top left-hand side of the page and be signed immediately after and below the last word.
- The statement should begin with the following text –
 - ‘Statement of (enter full name and date of birth) of (enter address) made to (enter Revenue officer’s name), having been cautioned as follows:
You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence’.
- After issuing a caution, a Revenue officer should always ask the person providing the statement if s/he understands the caution.
- The person providing the statement should acknowledge at the beginning of the statement that s/he has been cautioned, that s/he understands the caution and that the statement is being provided voluntarily.
- The statement should be in the person’s own words and the Revenue officer should not suggest the use of a particular word or form of words.
- The statement should, preferably, be in the person’s own writing but a typewriter or word processor may be used. However, if the person asks a Revenue officer to write or type out the statement, that fact should be recorded, and the statement should be taken down verbatim with no gaps or paragraphs.
- The last sentence of the statement should read –
 - ‘I have read this statement and it is correct. I do not wish to amend, add to or delete anything recorded therein’
 - or
 - ‘I have read this statement and it is correct, as amended by me’.
- The person providing the statement must be handed the statement to review the text and s/he must be offered the opportunity to amend, clarify, add to or delete any detail as s/he wishes. If the person refuses to read or sign the document, this should be noted on the statement before the officer signs it. The Revenue officer(s) present must sign the statement as witness irrespective of whether the suspect signs or not.
- Any corrections should be initialled by the person making the statement.

- The statement should be signed and dated by the suspect and witnessed by two officials (if possible) who should endorse the document below the suspect's signatures with their signatures, the date and time.
- A person must never be offered an inducement or intimidated in any way in order to get a statement or a response to any question.
- The original statement should then be retained under secure custody for evidential and prosecution purposes. A typed transcript should be prepared and copied to the prosecution report file. No notes, marks or imprints whatsoever are to be applied to the original document.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.14 Preparing for court

3.14.1 Introduction

Presenting evidence in court is not a simple task. However, officers can normally undertake this responsibility without difficulty by conducting careful preparation, using common sense, presenting evidence coherently and listening carefully to questions and giving clear answers.

Training is a key element in the development of skills for dealing with court cases. Revenue's Training Branch provides a *Courtroom Procedures* course which greatly enhances the knowledge and expertise of enforcement officers in this area.

The success or failure of a case will depend on the quality of the evidence and exhibits presented by the witnesses and enforcement officers are continually required to be capable of undertaking this task. The following are guidelines for staff involved in court cases.

3.14.2 Guidance on Preparing for Court

Preparation: Preparation begins on receiving notification of a court attendance. It is essential to familiarise yourself with all aspects of the case. Revenue officials should review their notebook, case report, witness statements and the exhibits which will be necessary to prove a case.

Review of evidence: Officers should review the evidence for the case and memorise it accurately. Officers should also revise names, places, dates, and amounts/quantities involved along with the details of any interview(s) held with the defendant.

Pre-trial consultation: When possible, a pre-trial consultation should be sought with the prosecuting solicitor and counsel in advance of the hearing. A pre-trial consultation helps to ensure that all parties are properly briefed and that no misunderstandings arise. Managers should take steps to ensure that such consultations take place wherever possible. For complex cases, a consultation with the unit's HEO or AP should occur in advance of meeting with the legal team. It should be noted that a solicitor or counsel cannot coach a witness e.g. advise a witness to answer in a particular fashion.

Location of court/timely arrival: Officers should conduct prior research to ensure s/he knows the location of the court to avoid delays. Officers should arrive in plenty of time before the court sits as it may be necessary to consult with legal personnel in advance of the hearing.

Dress code: The weight attached to an officer's evidence is very often based on the impression s/he makes upon the Court. Enforcement officers should always ensure that they are appropriately dressed and neatly groomed. Uniformed officers should wear a full uniform in court.

Identification: Officers should bring evidence of their authorisation to court e.g. Revenue identity card.

Research: Officers should be prepared for general questions. Officers may be looked upon as an expert in court and should know the legislation under which their functions were carried out and under which the offence was committed, as well as any other relevant sections of the Acts. In addition, officers should be familiar with relevant regulations or any other documentation related to the case.

Notebook: It is essential that an officer brings the correct notebook to court so that s/he can refer to contemporaneous notes and notes on other important aspects of the investigation.

Addressing the Judge: The Judge should be addressed as "Judge" in both District and Circuit Courts.

Exhibits: Officers should collect and bring all the exhibits that are required for court including the key to the exhibits locker. If there is not an appointed exhibits officer, then the officer should bring the exhibits with him/her into the witness box.

Proof of offence: Offences created by Acts of the Oireachtas do not have to be proved as they are required to be "judicially noticed" in accordance with Section 13 of the Interpretation Act 2005. However, in the case of an offence created by a Statutory Instrument, proof of the offence must be established by furnishing the court with either an original copy of the relevant Statutory Instrument published by the Stationery Office or an original copy of the edition of *Iris Oifigiúil* in which details of the making of the instrument was published. While it is expected that a State Solicitor should be fully aware of these requirements, a case officer should bring this to his/her attention, where appropriate.

3.14.3 Providing evidence in court

The following points should be noted by officers who are required to provide evidence in court:

Exhibits: When called to a witness box, an officer should bring all the exhibits that s/he intends to produce.

Procedure for being a witness: When an officer is required to give evidence, the solicitor or barrister for the party who called the officer as a witness will stand up and state the officer's name as being the next witness. When called, the officer should walk up purposefully to the witness box, stand for the oath/affirmation as directed by the court registrar and then sit down in the seat provided.

Oath: When taking the oath, the officer should hold the Bible provided in his/her right hand and repeat the words of the oath as directed by the court registrar. The court registrar will normally ask officers to repeat the oath after him/her. Alternatively, an officer can make an affirmation. An affirmation is a verbal, solemn and formal declaration, which is made in place of an oath. An affirmation has the same effect as an oath but does not use a religious text. Officers wishing to affirm must state this to the court registrar.

Identifying yourself: After taking the oath/affirming, officers will normally be asked to state their name and occupation.

Speak clearly: When an officer commences giving evidence, they should speak clearly and loud enough so that all present in the courtroom can hear.

Replying to questions: The following points are important when replying to questions while in the witness box:

- Reply fully to questions asked by the person presenting the case.
- Look towards the party asking the question and, where possible, look towards the Judge when answering the question.
- Do not volunteer information or answers to questions that were not asked, even if an officer feels the prosecutor has forgotten to question on a particular aspect of the case. Very often there is a reason for the omission.
- Be factual in your answers. If an officer does not know the answer to a question they should say so. An officer should never embellish an answer or create an answer because they believe it will help Revenue's case.
- Maintain composure. Occasionally in cross-examination an officer may have serious allegations made about his/her conduct or may be asked questions that s/he finds offensive. In all circumstances, the officer must answer correctly and politely. This approach will assist Revenue's case considerably.

Notebook: An officer is entitled to refresh his/her memory by referring to notes. An officer should have his/her original notebook ready with the relevant pages marked or tabbed for ease of reference. A witness is not allowed to read from a script or statement. Permission must be sought from the Judge to refer to a notebook.

Court adjournments: If the court is adjourned for any reason while an officer is in the witness box, the officer cannot discuss his/her evidence with anybody, including other witnesses, during the adjournment. If the court is adjourned during an officer's cross examination, the officer should avoid any contact with the State's legal team.

Conclusion of evidence: When an officer has finished providing evidence, the officer should remember that s/he may be watched by the Judge and/or jury when returning to his/her seat. The officer should always be careful to return to his/her seat quietly without communicating with others in any way. When finished providing evidence, the officer should remain in court unless the prosecution solicitor confirms that they are free to leave.

Court attendance report: On returning from court, officers should submit a report of the hearing to his/her -manager.

3.14.4 Claiming of expenses

Revenue officers called as witnesses on behalf of the State must attend as required and this court attendance is part of official duties. Revenue officers are eligible for travel and subsistence expenses, where applicable, subject to the usual regulations.

Except for certain civil proceedings, Revenue officers should not claim witness expenses for court appearances. Officers called, through summons or subpoena, as witnesses on behalf of parties other than the State, are entitled to special leave with pay for the period of necessary absence. In such instances, HR Support Branch of Corporate Services Division should be contacted. Any witness expenses arising in such circumstances should be claimed at court.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Chapter 4

Powers

4 CHAPTER 4 Powers

4.1 Use of Powers

A critical issue facing Revenue officers is ensuring the proper use of enforcement powers. Under no circumstances should an officer exercise these powers until the appropriate authorisation and training is received. It is the responsibility of line management to ensure all staff engaged in enforcement activity are appropriately authorised. Enforcement powers, which range from the right to stop vehicles to the seizure of goods, are set out in detail in this part of the manual.

The purpose of these instructions is to ensure that these wide-ranging powers are used appropriately for the benefit and protection of both the public and the officer and that the powers themselves are preserved by being used in a careful and professional manner. In this regard, two central points must be emphasised:

- The officers exercising these powers must be individually authorised by the Revenue Commissioners to do so. This also means that evidence of such authority, by way of an identity card, must be carried and made available for presentation to the person(s) concerned. Furthermore, in certain circumstances, the law requires that officers must be in uniform – notably, in the stopping of vehicles.
- Officers should use their enforcement powers in a fair and reasonable way, proportionately and consistently, and in full compliance with the relevant statutory requirements.

Proportionality means that Revenue's enforcement response will be appropriate to the nature, seriousness and extent of the offence detected. In the case of a serious offence, a case will be put forward for prosecution through the Courts. There are limited situations, however, in which the issuing of a warning, or requiring the payment of a compromise sum, would be more appropriate than prosecution. This could arise, for instance, on the first occasion of the detection of an offence (such as where marked fuel is found in the fuel tank of a private motor vehicle), where a compromise sum could represent an alternative to bringing the matter to Court. Any repetition of such an offence would, however, be dealt with by way of seeking to prosecute the person concerned.

Consistently means that, generally, similar contraventions or offences will attract comparable enforcement action, and an even-handed response will be used in responding to issues that Revenue's enforcement work brings to light.

There are obvious and close links between the area of powers and offences. The correct determination of the type of offence committed will determine the penalty and forfeiture provisions which, in turn, will determine the powers of officers in any set of circumstances. Officers only have powers of detention and seizure where specific forfeiture provisions exist in relation to the offence concerned.

4.2 Excisable Products – Enforcement Law

4.2.1 General

The legislation governing excisable products is consolidated in Finance Act 2001. Excisable products, as defined in section 97 of Finance Act 2001, are subject to the provisions of sections 96 –117 of that Act. These provisions govern excisable products brought into the State from any place (including EU member states, third countries, overseas duty-free outlets or duty-free zones) and also include re-imported home-produced products. In certain circumstances, it may be appropriate to propose charges in connection with the evasion or attempted evasion of customs duty and VAT payable on excisable products.

Sections 119-132 of Finance Act 2001 deal with offences, penalties and proceedings, while sections 133-144 set out the powers of officers. In addition, tobacco products and excise offences related to tobacco products are subject to the provisions relating to tax stamps outlined in Finance Act 2005.

4.2.2 Excisable Products - Offences

The following table sets out the legal provisions concerning offences, forfeiture, and enforcement powers relating to excisable products.

Note: all legislative references refer to the legislation as amended by any subsequent enactment.

Excisable Products - Offences		Offence Section	Forfeiture Section	Enforcement Law
Imports	<p>Illegal importation after release for consumption in other member States (OMS) i.e.</p> <ul style="list-style-type: none"> ▪ Where the terms of Arts. 5-26 of S.I. 146/2010 are not met ▪ Where the goods do not qualify for private use having regard for Art. 25 of S.I. 146/2010 	Section 119 Finance Act 2001	Section 125(1) Finance Act 2001	
	<p>Illegal Importation from third countries (including non-fiscal territories of the Community, duty-free zones and duty-free outlets outside the EU)</p>	Section 119 Finance Act 2001	Section 125(1) Finance Act 2001	
	<p>Irregular movement into the State from OMS under duty suspension arrangements</p>	Section 14 Customs Act 2015	Section 17 Customs Act 2015	<p>Search</p> <p>Section 136(5) Finance Act 2001</p>
	<p>Irregular movement into the State from OMS under duty suspension arrangements</p>	Section 121 Finance Act 2001	Section 125(1) Finance Act 2001	<p>Detention</p> <p>Section 140(1) Finance Act 2001</p>
Exports	<p>Irregular export after release for consumption in State by tax representative</p>			
	<p>Irregular export after release for consumption in State by others (including State Vendors)</p>	Section 121 Finance Act 2001	Section 125(1) Finance Act 2001	<p>Seizure</p> <p>Section 141(1) Finance Act 2001</p>
	<p>Irregular movement from the State to OMS under duty suspension arrangements</p>			
	<p>Failure to produce Accompanying Administrative Documents for goods being exported</p>			

Within the State	Irregular <ul style="list-style-type: none"> ▪ Production/Processing ▪ Holding ▪ Removal from Warehouse 	Section 121 Finance Act 2001	Section 125(1) Finance Act 2001	
	Failure to produce Accompanying Administrative Documents for goods moving within the State under the duty suspension arrangements			
Tobacco	All offences associated with Tobacco Tax Stamps (see section 4.6 of this Manual)	Section 78 Finance Act 2005	Section 78(7) Finance Act 2005	

4.3 Level of Authority for the exercise of legal powers

This part of the manual sets out the legal powers available to enforcement officers. The list of legal provisions is not exhaustive, and the summaries provided are for general guidance only. To gain a full understanding of the powers granted in each instance, officers should review the full text of the legislation concerned.

Officers may only exercise the available legal powers when authorised to do so by the Revenue Commissioners within the terms of the empowering legislation and subject to the guidelines listed at Sections 3.3.1 and 3.3.2 below.

4.3.1 General Authority

Staff have general authority to exercise the available powers for regular, day-to-day control and enforcement duties in all work activities, for example, for:

- normal activities in ports, warehouses, processing plants, etc.;
- regular inspection visits to controlled traders;
- regular enforcement operations;
- regular control operations;
- regular boarding, rummaging, passenger or baggage checks.

Higher Executive Officers (HEOs) are usually responsible for managing routine, day-to-day operations and any non-routine operations which are not of an intense or sensitive nature.

4.3.2 Specific Authority

In circumstances not covered by the general authority, as outlined above, specific authority at Assistant Principal (AP) or Principal Officer (PO) level is required in advance. The supervising officer that grants the specific authority (in accordance with the requirements set down at each legal provision in the following pages) must be satisfied that the circumstances warrant the use of the enforcement powers in question and must take account of the extent to which they may be used.

A summary of situations where specific authority is required is as follows:

- Non-routine operations of an intense or sensitive nature e.g. road blocks, disruption of commercial shipping, usually require ***specific authority at AP level.***
- Other specific operations e.g. the arrest of persons, disruption of scheduled passenger services, usually require ***specific authority at PO level.***

Full details of any specific authority required for each legal provision are outlined in the following pages.

4.3.3 Statutory Right of Entry

Notes relating to the upcoming tables:

1. See [section 4.7](#) for powers of entry under Search Warrant.
2. Statutory powers of entry/search do not extend to private dwellings.
3. It will be noted from many of the references below that the legislation confines the power of entry to “at all reasonable times”. The interpretation of the term “reasonable” will depend on when a premises is normally open for business. For instance, demanding entry late at night might be unreasonable for many premises. On the other hand, it would be acceptable in the case of pubs or nightclubs if they are open for business and operating normally at the time. As a general rule, the most reasonable time should be chosen where alternatives are available.
4. **Power of detention:** Where an officer enters a premises under section 136 of Finance Act 2001, the officer may exercise the power to detain goods or vehicles under section 140 of Finance Act 2001. This particular power should only be used in instances where the officer identifies goods liable to forfeiture during compliance checks, as part of their day to day duties and had no prior information on entering the premises. An officer who has entered a premises under section 136(3)(e) of Finance Act 2001, statutory right of entry without warrant, may also exercise the Power of Seizure (section 73(i) of Finance Act 2012). In instances where an officer is in possession of sufficient information, a search warrant must be obtained under section 136 (5) of Finance Act 2001 **before** the premises is entered.
5. Some of the provisions listed below overlap earlier enactments which are still in existence. In general, officers should use the most recent provision available.
6. All legislative references refer to the legislation as amended by any subsequent enactment.

Statutory Right of Entry

Table 1/6

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Amusement Machines	Section 125 Finance Act 1992	Provides for entry at all reasonable times to any public place where amusement machines are believed to be available for play. In this context, a public place is defined as any place to which the public has access as of right or by permission or membership.
Aircraft	Section 27 Customs Act 2015	An authorised Customs Officer, and any officer accompanying that officer, may enter or board any aircraft that is entering or leaving the State or in any place within the State. The authorised officer may examine and search the aircraft and may examine, remove or retain any records within the aircraft. The officer may break open any place or receptacle that is locked and may sample, mark or secure any goods and may also seize or detain any goods which are liable to forfeiture or may be required as evidence. The authorised officer may question a person in charge of the aircraft or any goods contained on the aircraft.
Airports	Section 7 Customs Free Airport Act 1947 and 1958	Confers right of entry to the airport and the buildings, aircraft, ships, boats and vehicles therein.

Bookmaking	Section 136(1) Finance Act 2001	<p>An authorised officer may, at all reasonable times, enter a premises or other place (except a dwelling) in which bets liable to betting duty are reasonably believed to be accepted.</p> <p>Note: Section 26(1) of the Betting Act 1931 is extant and provides the power of entry to a registered and open bookmaking premises.</p>
------------	------------------------------------	---

Statutory Right of Entry

Table 2/6

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
	Section 25(1) and (2) Customs Act 2015	A Customs Officer may enter and inspect a customs port or airport, any conveyance within the port or airport or a premises used for the receipt and storage of postal packets awaiting customs clearance. The Customs Officer may pass freely along any part of the coast or shore and any land within 32 kms of the land frontier and remain in any such place for the purpose of conducting patrols or surveillance. The Customs Officer may be accompanied by other persons and may bring any vehicle, customs dog, equipment materials or any other thing required.
Customs Control	Section 27 Customs Act 2015	An authorised Customs Officer, and any officer accompanying that officer, may enter or board any vessel, aircraft, vehicle or other means of transport used in the transportation of goods or passengers that is entering or leaving the State or in any place within the State. The authorised officer may examine and search the conveyance and may examine, remove or retain any records within the conveyance. The officer may break open any place or receptacle that is locked and may sample, mark or secure any goods and may seize or detain any goods which are liable to forfeiture or may be required as evidence. The officer may question a person in charge of the conveyance or any goods contained on the vessel.
	Section 25(3) Customs Act 2015	A customs officer in charge of a vessel employed for the prevention of smuggling may anchor, moor, berth or land the vessel or haul the vessel ashore at any place within the State at no cost to the State.

Excisable Products All Products	Section 136(1) Finance Act 2001	<p>An authorised officer may, at all reasonable times, enter a premises or other place (except a dwelling) in which excisable products are being, or are reasonably believed to be, produced, processed, held, stored, kept, packaged or put up for sale or disposal and carry out a search and investigation.</p> <p>Note: The full text of section 136 of Finance Act 2001 should be reviewed to gain an understanding of all powers granted under this section.</p>
--	---------------------------------------	---

Statutory Right of Entry		Table 3/6
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Gaming Machines	Section 43(10)(a) Finance Act 1975	Provides for entry at all reasonable times to any public place in which gaming machines are believed to be available for play.
Intrastat	Regulation 6(1) of S.I. No. 610/2011 European Communities (Intrastat) Regulations 2011	An authorised officer may at all reasonable times enter any premises or place where s/he reasonably believes records are kept that relate to goods to which the Intrastat system applies.
Mineral Oil	Section 135(2) Section 136(2) Finance Act 2001	Provides for right of entry to, and inspection of, any premises other than a dwelling at all reasonable times for the purpose of: <ul style="list-style-type: none"> ▪ Examining and/or taking samples of any mineral oil in or on a vehicle present; ▪ Examining a vehicle present; ▪ Questioning an owner, director, manager or person in charge of the vehicle in relation to mineral oil. <p>An officer is also empowered to bring onto such premises any vehicle being used in the course of duty.</p>
Ships	Section 650(1) Merchant Shipping Act 1894	Provides for the right of an officer to enter a ship where the owner or master of the ship has failed on demand to pay the dues due in respect thereof.

Statutory Right of Entry		Table 4/6
<p>General authority may be used for routine operations only.</p> <p>Specific authority at PO level is required to use this power in all circumstances other than routine operations.</p>		
Activity	Legal Provision	Summary Statement of Provision
Taxes and Duties (including Local Collection work)	Section 903 Taxes Consolidation Act 1997	<p>An authorised officer may at all reasonable times enter any premises or place in connection with employment or PAYE enquiries and may:</p> <ul style="list-style-type: none"> ▪ Require the production of records; ▪ Search for records not produced; ▪ Examine, remove, retain, copy or take extracts of any records; ▪ Require to be given assistance. <p>An officer shall not, without the consent of the occupier, enter any part or portion of any premises which is occupied wholly and exclusively as a private residence except on production by the officer of a warrant expressly authorising the authorised officer to so enter.</p>
	Section 904 Taxes Consolidation Act 1997	<p>An authorised officer may at all reasonable times enter any premises or place in connection with Relevant Contracts Tax (RCT) and may:</p> <ul style="list-style-type: none"> ▪ Require the production of the records; ▪ Search for records not produced; ▪ Examine, remove, retain, copy or take extracts of any records; ▪ Require to be given assistance. <p>An officer shall not, without the consent of the occupier, enter any part or portion of any premises which is occupied wholly and exclusively as a private residence except on production by the officer of a warrant expressly authorising the authorised officer to so enter.</p>

Statutory Right of Entry

Table 5/6

General authority may be used for routine operations only.

Specific authority at PO level is required to use this power in all circumstances other than routine operations.

Activity	Legal Provision	Summary Statement of Provision
Taxes and Duties (including Local Collection work)	Section 905 Taxes Consolidation Act 1997	<p>An authorised officer may at all reasonable times enter any premises or place where the officer has reason to believe that:</p> <ul style="list-style-type: none"> ▪ any trade/profession/activity is carried out therein which is chargeable of tax (of any type), ▪ any records or documents relating to a business are kept (or are obliged to be kept), and ▪ any taxable property is or has been located. <p>An officer may:</p> <ul style="list-style-type: none"> ▪ Require the production of records or any asset relating to a tax liability, ▪ Search for records or assets not produced, ▪ Examine, remove, retain, copy or take extracts from any records, ▪ Require to be given assistance.

	<p>Section 906 Taxes Consolidation Act 1997</p>	<p>An officer shall not, without the consent of the occupier, enter any part or portion of any premises which is occupied wholly and exclusively as a private residence except on production by the officer of a warrant.</p> <p>The following information shall not be disclosed to an authorised officer:</p> <ul style="list-style-type: none">▪ Information to which legal professional privilege could be claimed,▪ Information of a confidential medical nature,▪ Professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose). <p>An authorised officer for the purposes of sections 903, 904 and 905 of the Taxes Consolidation Act 1997 may be accompanied by a member of An Garda Síochána who may arrest without warrant any person who obstructs or interferes with an authorised officer in the exercise of his/her powers or duties.</p>
--	---	---

Statutory Right of Entry**Table 6/6**

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Vat Information Exchange System (VIES)	Section 108(2) VAT Consolidation Act 2010	An authorised officer may at all reasonable times enter any premises or place where s/he has reason to believe that business is carried on or anything is done in connection with business.
VRT	Section 136(1) Finance Act 2001	An authorised officer may, at all reasonable times, enter a premises or other place (except a dwelling) in which the manufacture, distribution, storage, repair, modification, importation, dealing, delivery or disposal of vehicles is being, or is reasonably believed to be, carried on or where any records relating to the above activities are believed to be kept.

4.4 Inspection of Goods and Records

Inspection of Goods and Records		Table 1/5
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Amusement machines	Section 125 Finance Act 1992	An officer may, at all reasonable times, enter any public place where amusement machines are available for play and undertake a search and investigation that s/he thinks proper. The officer may inspect and take copies or extracts from any books, documents or information in the form of computerised data found there that is believed to relate to amusement machines.
Baggage	Section 12 Customs Act 2015	A person entering or leaving the State shall, if required by a Customs Officer, produce and unpack his/her baggage for examination, remain present for the examination and repack the baggage following the examination.
	Section 136A Finance Act 2001	Where an officer has reason to believe that a person entering the State may, in relation to excisable products in the baggage of the person or otherwise transported by that person, be committing an offence under section 119 or 121 of Finance Act 2001, the officer, on production of the authorisation of that officer if so required by that person, may: <ul style="list-style-type: none"> (a) require that person to stop, and to give to that officer: <ul style="list-style-type: none"> ▪ the name, address and date of birth of that person, ▪ any information in relation to such excisable products or baggage, and ▪ such excisable products for examination, and (b) examine any such baggage and excisable products.

Bookmaking	Section 136(3) Finance Act 2001	An authorised officer may, having entered a premises where betting is reasonably believed to be taking place, inspect and take copies/extracts of any books, accounts, documents or records. An officer may search for such records and may require production of records in legible form (including production of such information in a permanent legible form from a computer).
------------	---------------------------------------	---

Inspection of Goods and Records

Table 2/5

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Customs Control Conveyances	Section 27 Customs Act 2015	A Customs Officer and any officer accompanying that officer may enter or board any vessel, aircraft, vehicle or other means of transport used in the transportation of goods or passengers that is entering or leaving the State or in any place within the State. The authorised officer may examine and search the conveyance and may examine, remove or retain any records within the conveyance. The officer may break open any place or receptacle that is locked and may sample, mark or secure any goods and may seize or detain any goods which are liable to forfeiture or may be required as evidence. The officer may question a person in charge of the vessel or any goods contained on the vessel.
Documents and Information	Article 15 EU Regulation No. 952/2011 EU Customs Code	Any person directly or indirectly involved in the operations concerned for the purposes of trade in goods shall provide the customs authorities with all the requisite documents and information, irrespective of the medium used, and all the requisite assistance requested and by any time limit prescribed.
Customs Free Ports and Airports	Article 7 of S.I. No. 203/1987 Free Ports (Customs and Excise) Regulations 1987	An officer may request production of a properly completed inventory of goods, in an approved form, together with the goods from a person conveying goods into or out of the State from a free port.

	Article 8 of S.I. No. 203/1987 Free Ports (Customs and Excise) Regulations 1987	An officer of Customs and Excise may at all reasonable times, require production of goods, records, accounts and other documentation held by a licensed trader within a free port and may inspect and take extracts from such records, accounts and other books and documents.
Post Release Control	Article 48 EU Regulation No. 952/2011 EU Customs Code	Customs authorities may verify the accuracy and completeness of information provided in a declaration and the existence, authenticity, accuracy and validity of any supporting document and may examine the accounts of the declarant and other records relating to the operations or goods in question.

Inspection of Goods and Records

Table 3/5

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Goods for Import/Export	Section 28 Customs Act 2015	A Customs Officer may examine any goods that have been imported, declared for export or are otherwise under customs control if the officer suspects that the goods are liable to forfeiture, are chargeable with duty that has not been paid or are subject to any prohibition or restriction on their importation or exportation.
Postal Packets	Section 25(1) and (2) Customs Act 2015	A Customs Officer may enter and inspect a customs port or airport or any conveyance within the port or airport or a premises used for the receipt and storage of postal packets awaiting customs clearance. The officer may be accompanied by other persons and may bring any vehicle, customs dog, equipment, materials or other thing required.

Inspection of Goods and Records		Table 4/5
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Gaming Machines	Section 43(10) Finance Act 1975	An officer may, at all reasonable times, enter any public place where gaming machines are available for play and undertake whatever search and/or investigation is considered proper. An officer may also inspect and take copies or extracts from any books or documents found to relate to, or is believed to relate to, gaming machines.
Intrastat	Regulation 6(1) of S.I. No. 610/2011 European Communities (Intrastat) Regulations 2011	An authorised officer may at all reasonable times enter any premises or place where s/he reasonably believes records relating to goods to which the Intrastat system applies are kept. The officer may search for inspect and take copies or extracts of any such records and may require any person on those premises or in that place to produce the said records.
Mineral Oil	Section 136(3) Finance Act 2001	Having entered a premises, an authorised officer may search for, inspect and take copies/extracts of any books, accounts, documents or records. An officer may require production of records in legible form (including the production of information in a permanent legible form from a computer).
Taxes and Duties (including Local Collection work)	Section 903 Taxes Consolidation Act 1997	An authorised officer may at all reasonable times enter any premises or place (except a dwelling) where the officer believes that records are kept or anything related to employment or income tax has been conducted and may: <ul style="list-style-type: none"> ▪ Require the production of records, ▪ Search for records not produced, ▪ Examine, remove, retain, copy or take extracts of any records, ▪ Require to be given assistance.

Inspection of Goods and Records

Table 5/5

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Tobacco Products (Tax stamps)	Section 138 Finance Act 2001	<p>An officer of the Revenue Commissioners who has reasonable grounds to believe that a person is committing or has committed an offence in relation to tobacco tax stamps may require that person to provide information relating to tobacco products concerned or provide any tobacco products concerned and may examine those tobacco products.</p> <p>Where an officer has reasonable grounds to believe that any tobacco products are contained in a receptacle, the officer may require any person in custody or control of the receptacle to provide access to the receptacle. The officer may search and examine the receptacle to establish if an offence has been committed in respect of those tobacco products. A receptacle does not include an article of clothing on the person concerned.</p>
VAT Information Exchange System (VIES)	Section 108(2)(a) VAT Consolidation Act 2010	An authorised officer, having entered a premises where business is conducted, may require a person carrying on the business, a person present that is employed by the person carrying on the business or a person who is associated with carrying on of the business to produce any books, records, accounts or other documents relating to the business or to any other connected business.
VRT	Section 136(3) Finance Act 2001	An authorised officer, having entered a premises, may search for, inspect and take copies/extracts of any books, accounts, documents or records. The officer may request and require production of all information relating to a vehicle, as is reasonably required and is in the possession, custody or procurement of the person requested.

4.5 Sampling

Sampling		Table 1/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Counterfeit Goods	Article 19 EU Regulation No. 608/2013 Customs enforcement of intellectual property rights	Empowers a Customs Officer to take samples of detained goods to determine whether such goods are counterfeit.
Customs Control	Section 27 Customs Act 2015	A Customs Officer may enter or board any vessel, aircraft, vehicle or other means of transporting goods or passengers that is entering or leaving the State or in any place within the State. The authorised officer may examine and search the conveyance concerned and may take a sample, mark or secure any goods on or in the conveyance.
	Section 28 Customs Act 2015	A Customs Officer may at any time and in any manner considered appropriate, examine and take samples of any goods that have been imported, declared for export or are otherwise under customs control if the officer has reasonable grounds to suspect that the goods are liable to forfeiture, are chargeable with duty that has not been paid or are subject to any prohibition or restriction on their importation or exportation.
	Article 48 EU Regulation No. 952/2013 EU Customs Code	For the verification of declarations which they have accepted, the customs authorities may examine goods and take samples for analysis or for detailed examination.

Sampling		Table 2/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Excisable Products (All Products)	Section 136(3)(b) Finance Act 2001	An authorised officer, having entered a premises, may take samples, without payment, of excisable products or materials/ingredients used in their manufacture.
	Section 135(1)(c) Finance Act 2001	When examining or searching a vehicle under this section, an authorised officer may take samples, without payment, of any excisable products in, on, or in any manner attached to a vehicle.
Mineral Oil	Section 135(2)(a) Finance Act 2001	Provides for a Revenue officer to take samples of mineral oil in any fuel tank or otherwise present on or in any vehicle or anything attached to the vehicle whether or not the vehicle is attended.
	Section 101 Finance Act 1998	Provides that, where possible, two samples should be taken and, if the owner of the goods or the owner's representative is present, then a sample should be offered to him/her. *Note this is not a power but provides for the requirement to take two samples and those samples to be forwarded to the State Laboratory for testing as soon as is practicable.
	Article 6 of S.I. No. 155/2011 European Communities Act, 1972 Regulations 2011	Provides that an officer of the Revenue Commissioners may take a sample of petrol or diesel fuel at any place in the State for the purposes of the Regulations. In such circumstances the officer must notify the owner or person in charge that a sample is to be taken and, if requested, to divide the sample into two parts and leave one part with that person.

	<p>Article 7 of S.I. No. 273/2014</p> <p>European Union (Sulphur Content of Heavy Fuel Oil and Gas Oil) Regulations 2014</p>	<p>An officer of the Revenue Commissioners may, at any place, take a sample of heavy fuel oil, gas oil or marine fuel, for the purposes of these Regulations. In such circumstances the officer must notify the owner or person in charge that a sample is to be taken and, if requested, to divide the sample into two parts and leave one part with that person.</p>
--	--	--

4.5 Search of Premises Under Warrant

Search warrants are required in all activity areas or circumstances except the specific activities detailed in [section 4.3.3](#) Search of Premises under Statutory Right of Entry.

See [section 3.8](#) for guidance on Search Warrants.

Search of Premises under Warrant		Table 1/2
The use of these powers requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Search Warrant	Section 29 Customs Act 2015	<p>An officer may obtain a search warrant from the District Court and may enter the named premises or land, by reasonable force if necessary.</p> <p>The officer may search and examine the premises or land, examine any books, accounts, documents or electronically recorded data found and require any person found on the premises or land to remain there for the duration of the search.</p> <p>The officer may seize or detain anything that is suspected to be liable to forfeiture or may be required as evidence in legal proceedings under the Customs Acts.</p>
	Section 136(5) Finance Act 2001	<p>An authorised officer of the Revenue Commissioners may obtain a search warrant from the District Court if there are reasonable grounds for suspecting that anything liable to forfeiture under excise law or any records relating to transactions in contravention of excise laws are being kept or concealed on or at any premises or place.</p> <p>An officer carrying out a search under warrant under section 136 may:</p> <ul style="list-style-type: none"> ▪ Seize anything found there or in the possession of a person present that the officer believes is liable to forfeiture, ▪ Remove any record, book, document or thing that the officer believes may be of value to the investigation of an excise offence,

		<ul style="list-style-type: none">▪ Take any steps necessary to preserve a record, book, document or thing,▪ Remove operate and/or retain any computer or storage medium and require any person present that is in a position to facilitate access to the device to provide any password or guidance necessary.
--	--	--

Search of Premises under Warrant

Table 2/2

The use of these powers requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Search Warrant	Section 908C Taxes Consolidation Act 1997 ²	<p>An authorised officer may obtain a search warrant where there are reasonable grounds for suspecting that an offence (under the Acts) is being, has been or is about to be committed, and that material is present which is likely to be of value to the investigation, or evidence of or relating to the commission of the offence is to be found.</p> <p>This warrant covers the search of any place, thing or person found there.</p>
	Section 12 Animal Remedies Act 1993 ³	<p>An officer of Customs and Excise may obtain a search warrant if s/he has reasonable cause for suspecting that there is on any land, an animal remedy or ingredient for an animal remedy that contravenes the Act, or evidence or documentation relating to the commission of an offence under the Act.</p> <p>Specific authorisation at AP level is required for the use of powers provided for in this Act.</p>

² Section 905(2)(a) of the Taxes Consolidation Act 1997 permits an officer to enter a premises without warrant where any activity for profit or gain takes place or any records or any other thing connected to such an activity takes place. Section 905(2)(a) should only be used where a warrant is required in a civil investigation for tax assessment purposes. Section 908C should be used where a search warrant is required in a criminal investigation.

³ The Animal Remedies Act 1993 confers a wide range of enforcement powers on authorised agricultural officers, officers of Customs and Excise and Gardaí, to counteract the illegal use or possession of animal remedies. Sections 11, 12, 13, 16 and 26 provide powers of inspection, entry, search of person and place, detention of person for search purposes, search under warrant, detention and seizure of goods and disposal of seized goods. The Act also sets out particular offences, including obstruction. Due to the specialised nature of this activity it is anticipated that any enforcement action involving officers of Customs and Excise will be non-routine and confined to assistance on formal request from authorised agricultural officers. In any event, specific authorisation at AP level is required for the use of these powers.

4.6 Search of Premises under Statutory Right of Entry

Statutory powers of entry/search do not extend to private dwellings.

See also [section 4.3.3](#) Statutory Right of Entry.

Search of Premises under Statutory Right of Entry

Table 1/3

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Airport	Section 10(2) Customs Free Airport Act 1947	An authorised officer of customs and excise may, within the limits of the airport, go on board any aircraft, ship or boat and enter any vehicle, house, shop, cellar, warehouse, room or other place within the limits of the airport and search for goods to which this section applies. S/he may break open any doors, chests, trunks and packages if necessary.
Amusement Machine Premises	Section 125 Finance Act 1992	Provides for search of any public place in which amusement machines are believed to be available for play.
Bookmaker's premises	Section 136(3) Finance Act 2001	Provides for the entry, search and investigation by an authorised officer at all reasonable times of any premises where the acceptance of bets is reasonably believed to be carried on.
Conveyances	Section 27 Customs Act 2015	An authorised Customs Officer may enter or board, examine and search any vessel, aircraft, vehicle or other means of transporting goods or people that is entering or leaving the State or in any place within the State. The authorised officer may sample, mark or secure any goods and may seize or detain any goods which are liable to forfeiture or may be required as evidence.
Excisable Products	Section 136(3) Finance Act 2001	Provides for the entry, search and investigation by an authorised officer in respect of any premises in which excisable products are being, or reasonably believed to be produced, processed, held, stored, kept, imported, purchased, packaged or offered for sale or disposal.

Search of Premises under Statutory Right of Entry

Table 2/2

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Gaming Machine Premises	Section 43(10) Finance Act 1975	Provides for the entry search and investigation of any premises or public place in which gaming machines are believed to be available for play.
Intrastat	Regulation 6(1) of S.I. No. 610/2011 European Communities (Intrastat) Regulations 2011	An authorised officer may at all reasonable times enter any premises or place where s/he reasonably believes records relating to goods to which the Intrastat system applies are kept and may require any person on those premises or in that place to produce to him or her the said records or such of them as s/he specifies and may search for, inspect and take copies of, or extracts from, the said records and may remove the said records from those premises or that place for further inspection.
Mineral Oil in the fuel tank of a vehicle	Section 136(2) Finance Act 2001	Allows an authorised officer to search a premises for the purposes of examining and taking samples of any mineral oil in any fuel tank or otherwise present on or in any vehicle, or anything attached to any vehicle whether or not the vehicle is attended.
	Section 136(3)(a) Finance Act 2001	Where an officer has entered a premises or place under section 136(1) of Finance Act 2001, the officer may carry out a search and investigation as is considered proper including the examination and search of any vehicle on such premises or in such place.
Vat Information Exchange System (VIES)	Section 108(2) VAT Consolidation Act 2010	An authorised officer may enter any premises where the officer believes anything is done in connection with a business and request the production of books, records, accounts or other documents connected to the business. If the officer believes that any of the items requested have not been produced s/he may search the premises for those books, records, accounts or other documents.

VRT	Section 136(3) Finance Act 2001	Provides for entry and search of any premises in which the manufacture, distribution, storage, etc. of vehicles is reasonably believed to be carried on, or where records relating to these activities are reasonably believed to be kept.
-----	------------------------------------	--

4.7 Questioning

See guidelines at [sections 3.5](#) notetaking and [3.7](#) in relation to questioning.

Questioning		Table 1/4
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Aircraft	Section 11 Customs Act 2015	The pilot-in-command of an aircraft entering the State shall answer all questions put to him or her by a Customs Officer relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board.
Baggage	Section 12 Customs Act 2015	A Customs Officer may question any person entering or leaving the State with respect to the person's arrival or departure, the person's identity, usual place of residence and intended address within the State as well as the person's baggage, anything included in that baggage or brought by that person by whatever means.
Bookmaking	Section 136(3)(d) Finance Act 2001	Having entered a premises where bets liable to betting duty are believed to be provided or accepted, an authorised officer is empowered to question any person present in relation to any records concerning betting activity and the person being questioned is obliged to give all information required which is in his or her possession, custody or procurement.
	Section 26(1) Betting Act 1931	Any officer of customs and excise may enter any registered premises at any time during which such premises are or are suspected by the officer of being open for business, and may ask questions that the officer thinks proper of any person found in such premises in relation to the premises and the business carried on there.
	Section 26(2) Betting Act 1931	An officer of customs and excise may enter any premises that is not a registered premises in which the business of bookmaking is being carried on or is suspected of being carried on and may ask any person found in such premises his or her name and address and any questions as the officer thinks proper in relation to such premises and the business carried on there.

	Section 25(2) Betting Act 1931	An officer of customs and excise may demand the production of a bookmaker's licence from any person observed to be carrying on the business of bookmaking. If such a person refuses or fails to produce a bookmaker's licence the officer may demand the person's name and address.
--	-----------------------------------	---

Questioning

Table 2/4

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Cash	Section 42 Customs Act 2015	A Customs Officer may question a person entering or leaving the European Union through the State for the purpose of establishing whether or not the person is in possession of cash with a value of more than €10,000.
Conveyances	Section 27 Customs Act 2015	<p>An authorised Customs Officer may enter or board any vessel, aircraft, vehicle or other means of transporting goods or people that is entering or leaving the State or in any place within the State where there are reasonable grounds to suspect that the conveyance or goods carried on it are:</p> <ul style="list-style-type: none"> ▪ liable to forfeiture, ▪ are chargeable with unpaid customs duty, ▪ were imported or exported contrary to any prohibition or restriction, ▪ contain records relating to transactions in contravention of the Customs Acts. <p>The authorised officer may question the person in charge of the conveyance in relation to any goods on or attached to the conveyance and require that person to give all information in relation to the conveyance and goods.</p>
Entering or leaving the State	Section 31 Customs Act 2015	A Customs Officer may question any person entering or leaving the State with respect to the person's arrival or departure, the person's identity, usual place of residence and intended address within the State and the person's baggage, anything included in that baggage or brought by that person by whatever means.
Excisable Products	Section 136(3)(d) Finance Act 2001	An authorised officer, having entered a premises, may question any person present in relation to excisable products or records, materials, ingredients or other substances used in the manufacture of excisable products. The person being questioned is obliged to provide all information requested which is in his/her possession, custody or procurement.

Master of Vessel	Section 9 Customs Act 2015	The Master of a vessel whether laden or ballast shall answer all questions put to him or her by a Customs Officer relating to the voyage, vessel, passengers, crew, baggage, conveyances and goods or stores carried on board.
------------------	----------------------------------	--

Questioning		Table 3/4
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Mineral Oil	Section 135(2)(c) Finance Act 2001	An authorised officer is empowered to question the owner of a vehicle, the person in charge of a vehicle or a director, manager or principal officer where there is more than one registered owner of the vehicle in relation to mineral oil which is in the possession or procurement of such person or is contained in any fuel tank present in a vehicle, attached to a vehicle or is capable of being used for combustion in the engine of the vehicle.
Taxes and Duties (including Local Collection work)	Section 905 Taxes Consolidation Act 1997	<p>An authorised officer may at all reasonable times enter any premises or place where there is reason to believe that:</p> <ul style="list-style-type: none"> ▪ any trade/profession/activity is carried out which is chargeable of tax (of any type) ▪ any records or documents relating to a business are kept (or are obliged to be kept); and ▪ any taxable property is or has been located. <p>An authorised officer may, in the exercise or performance of his or her powers or duties, require any person who is:</p> <ul style="list-style-type: none"> ▪ carrying on a trade, profession or other activity the profits of which are liable to tax ▪ is or was liable to any tax ▪ has information relating to any tax liability <p>to give the authorised officer all reasonable assistance, including providing information and explanations or furnishing documents and making available for inspection property as required by the authorised officer in relation to any tax liability or any repayment of tax.</p>

Tobacco Products (Tax stamps)	Section 138 Finance Act 2001	An officer of Revenue Commissioners who has reasonable grounds to believe that a person is committing or has committed an offence in relation to tobacco tax stamps may require that person to furnish his/her name, address, date of birth and all information in relation to the tobacco products concerned as may be reasonably required by the officer.
----------------------------------	---------------------------------	---

Questioning		Table 4/4
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
VAT Information Exchange System (VIES)	Section 108(2)(f) VAT Consolidation Act 2010	An authorised officer may require a person carrying on a business, or any person on those premises or in that place, who is employed by the person carrying on the business or who is associated with him/her in the carrying on of the business, to give the authorised officer all reasonable assistance, including providing information and explanations and furnishing documents in connection with the business, as required by the authorised officer.
VRT	Section 135(1)(d) Finance Act 2001	This section empowers an authorised officer to question any person in charge of a vehicle in relation to the vehicle and the person is obliged to give to the officer all information required which is in the possession or procurement of the person.
	Section 135(1)(d) Finance Act 2001	An authorised officer, having entered a premises, may question any person in relation to any vehicle and the person is obliged to give all information required which is in the possession, custody or procurement of the person (including giving his/her name and address if requested).

4.8 Removal and Detention of Documents

Removal and Detention of Documents		Table 1/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Bookmaking	Section 136(3) Finance Act 2001	Having entered a premises or place under section 136(1) of Finance Act 2001, an officer may remove and retain for further examination any books, accounts, documents or other recorded information including information contained on a computer that relates to bets liable to betting duty.
Conveyances	Section 27 Customs Act 2015	An authorised Customs Officer may enter or board any vessel, aircraft, vehicle or other means of transporting goods or people that is entering or leaving the State or in any place within the State if s/he believes the conveyance contains records that are in contravention of the Customs Acts. The Customs Officer may examine any records, take copies or extracts from any records or remove and retain any records for further examination.
Search of person	Section 30 Customs Act 2015	Where there is reasonable cause to suspect that a person may hold records relating to transactions in contravention of the Customs Acts, a Customs Officer may search a person in the vicinity of a port or airport, the coast, the land frontier, any premises or land subject to a search warrant under section 29 of Customs Act 2015 or any conveyance which has been boarded under section 27 of Customs Act 2015. The officer may examine, seize or detain anything found in the course of the search which may be required as evidence in proceedings for an offence.
Search of premises or land	Section 29 Customs Act 2015	A Customs officer, upon executing a search warrant issued under this section, may search premises or land and inspect anything or any record found on the premises or land. The officer may detain or seize anything or any record if there are reasonable grounds to suspect it is liable to forfeiture or may be required as evidence in legal proceedings.

Removal and Detention of Documents

Table 2/2

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Excisable Products (All products)	Section 136(3) Finance Act 2001	Having entered a premises or place under section 136(1) of Finance Act 2001, an authorised officer may remove and retain for further examination any books, accounts, documents or other recorded information including information contained on a computer that relates to excisable products (listed in section 97 of Finance Act 2001 as amended).
Intrastat	Regulation 6(1) of S.I. No. 610/2011 European Communities (Intrastat) Regulations 2011	An authorised officer may at all reasonable times enter any premises or place where s/he reasonably believes records relating to goods to which the Intrastat system applies are kept and may require any person on those premises or in that place to produce to him the said records as s/he specifies and may search for, inspect and take copies of, or extracts from, the records and may remove the records from those premises or that place for further inspection.
VAT Information Exchange System (VIES)	Section 108(2)(d) VAT Consolidation Act 2010	Having entered a premises or place where business is carried on or anything is done in connection with business an authorised officer may take copies, extracts or remove and retain and books, records, accounts, or other documents produced to or found by him/her for such period as may be reasonable for their further examination or for the purposes of any proceedings in relation to tax.

VRT	Section 136(3) Finance Act 2001	Having entered a premises or place under section 136(1) of Finance Act 2001, an officer may remove and retain for further examination any books, accounts, documents or other recorded information including information contained on a computer that relates to VRT.
-----	------------------------------------	---

4.9 Stopping a Conveyance

Stopping a conveyance		Table 1/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Conveyances	Section 26 Customs Act 2015	<p>A Customs Officer in uniform or serving in a clearly marked patrol vessel may stop or cause to stop any vessel, aircraft, vehicle or other means of transporting goods or people that is entering or leaving the State or in any other place in the State where there are reasonable grounds to suspect that the conveyance or goods carried on it are:</p> <ul style="list-style-type: none"> ▪ liable to forfeiture, ▪ are chargeable with unpaid customs duty, ▪ were imported or exported contrary to any prohibition or restriction, or ▪ the conveyance contains records relating to transactions in contravention of the Customs Acts.
Customs Free Ports and Airports	Art. 6 (2) of S.I. No. 203/1987 Free Ports (Customs and Excise) Regulations 1987	A person in charge of a vehicle in motion (whether laden or unladen) leaving a free port for another part of the State or entering a free port from another part of the State shall, on being requested by an officer of customs and excise, stop the vehicle and allow the officer to examine the vehicle and any goods therein and to take an account of the goods.
	Section 48 State Airports Act 2014	An authorised officer may stop any person or vehicle on an airport and search and require the person to account for any baggage in that person's possession
Excisable Products	Section 134(1)(a) and (4) Finance Act 2001	An officer in uniform may stop any vehicle to examine the vehicle or carry out searches where there are reasonable grounds to believe that excisable products or other products chargeable with excise duty are being transported in or on the vehicle.

		The person in charge of the vehicle must keep the vehicle stationary if requested to do so to allow examination and must move the vehicle to a more suitable location if the officer considers it necessary.
--	--	--

Stopping a conveyance		Table 2/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Mineral Oil	Section 134(1)(b) and (4) Finance Act 2001	An officer in uniform may stop any vehicle for the purpose of examining and taking samples of fuel that is either in the vehicle or in anything attached to it and capable of being used for combustion in its engine. The person in charge of the vehicle must keep the vehicle stationary if requested to do so to allow examination and must move the vehicle to a more suitable location if the officer considers it necessary.
Prohibited Goods	Section 134(1)(a) and (4) Finance Act 2001	An officer in uniform may stop any vehicle to examine the vehicle or carry out searches where there are reasonable grounds to believe prohibited goods are being transported in or on the vehicle. The person in charge of the vehicle must keep the vehicle stationary if requested to do so to allow examination and must move the vehicle to a more suitable location if the officer considers it necessary.
VRT	Section 134(2) and (4) Finance Act 2001	An officer in uniform may stop any vehicle for any purpose related to Vehicle Registration Tax or the registration of vehicles under the Finance Act 1992. The person in charge of the vehicle must keep the vehicle stationary if requested to do so to allow examination and must move the vehicle to a more suitable location if the officer considers it necessary.

4.10 Searching a conveyance

Searching a conveyance

Table 1/1

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Conveyances	Section 27 Customs Act 2015	An authorised Customs Officer may enter or board any vessel, aircraft, vehicle or other means of transporting goods or people that is entering or leaving the State or in any place within the State. The authorised officer may examine and search the conveyance concerned, may break open any place or receptacle that is locked, may examine any goods and records and may mark, sample, lock up, seal or secure any goods on or in the conveyance.

Excisable Products	Section 135(1) and (1A) Finance Act 2001	<p>An authorised Customs Officer may search any vehicle, container, trailer, tanker or other thing that is used to store goods in the course of carriage to establish whether:</p> <ul style="list-style-type: none">▪ any excisable products being transported correspond in every material respect with the descriptions in the documentation accompanying the products, or▪ anything being transported is liable to forfeiture under the law relating to excise. <p>If an officer is searching a vehicle under this section and the officer suspects that any excisable products in the vehicle are liable to forfeiture, the officer may:</p> <ul style="list-style-type: none">▪ search the vehicle for any record or thing that the officer believes may be of value to any investigation or legal proceedings under excise law,▪ inspect and take copies or extracts of any records present,▪ remove, retain and operate any computer found in the vehicle or in the possession of a person in the vehicle that the officer believes may contain information that may be of value to any investigation or legal proceedings under excise law, and▪ require a person who is in a position to facilitate access to such any computer present to provide any password or guidance necessary.
--------------------	--	--

4.11 Detaining a conveyance

Detaining a conveyance		Table 1/2
<p>Non-routine operations of an intense or sensitive nature <u>and</u> instances where commercial conveyances are involved require specific authority at AP level (or HEO in AP's absence).</p> <p>If scheduled passenger services are likely to be affected, specific authority at PO level is required</p>		
Activity	Legal Provision	Summary Statement of Provision
Conveyances	Section 33 Customs Act 2015	An authorised Customs Officer may detain any vessel, aircraft, vehicle or other means of transporting goods or people that contains goods that have been imported or are intended to be exported without the payment of customs duty or are in contravention of any restriction or prohibition on their importation or exportation.
Excisable Products	Section 140(1) Finance Act 2001	<p>Where an officer reasonably suspects that any excisable products or any other goods are liable to forfeiture then:</p> <ul style="list-style-type: none"> ▪ all such excisable products or goods, ▪ any other thing being made use of in the conveyance of such products, and ▪ any vehicle container, trailer, tanker or other thing that is used to store goods in the course of carriage, <p>may be detained until examinations, enquiries or investigations are made by the officer to establish whether forfeiture is appropriate. The product or conveyance must either be seized or released when a determination is made or within one month, whichever is the earlier.</p>
Shipping-Clearance Outward (Including Light Dues action)	Section 651 Merchant Shipping Act 1894	Provides for the right of an officer to detain a ship, at any port where light dues are payable in respect of that ship, until the receipt for the payment of light dues is produced.

	Section 692(3) Merchant Shipping Act 1894	Provides for the right of an officer to refuse clearance outward or to grant a transiré where a ship is detained under the section 651 of the Merchant Shipping Act 1894.
--	--	---

Detaining a conveyance**Table 2/2**

Specific authority at PO level is required to use these powers.

Activity	Legal Provision	Summary Statement of Provision
Light Dues	Section 650(1) Merchant Shipping Act 1894	Provides for the right of an officer to detain the goods, guns, tackle, or anything belonging to or on board a ship, where the owner or master has failed, on demand, to pay the light dues due. The goods, etc. may be detained until the light dues are paid.
VRT	Section 140(3) Finance Act 2001	Where an officer reasonably suspects that: <ul style="list-style-type: none"> ▪ a vehicle has not been registered, ▪ a vehicle has been converted and the necessary declaration has not been made, or ▪ VRT has not been paid in respect of a vehicle, the vehicle concerned may be detained to allow for examinations, enquiries or investigations to be undertaken, as deemed necessary by the officer to establish whether forfeiture of the vehicle is appropriate. The vehicle must either be seized or released when a determination is made or within one month, whichever is the earlier.

4.12 Detention and Seizure

The following tables are a summary of the combined forfeiture, detention and seizure provisions which are most frequently used by Revenue Officers.

This summary is for reference only and staff are advised to familiarise themselves with the relevant legislation in order to establish the precise circumstance in which each provision is used.

The following should be noted:

- An officer has powers of detention and seizure only where specific forfeiture provisions exist in relation to the offence concerned;
- An officer must reasonably suspect the commission of an offence before exercising powers of detention or seizure;
- In cases of doubt or difficulty as to what action an officer should take, s/he should always consult with his/her manager before proceeding;
- A notice of seizure should be issued to the owner/offender of the seized goods and/conveyances. If the owner/offender is not present, a notice of seizure must issue by registered post and the Track and Trace reference number retained on record.
- The C-NET system contains the national seizure register. All items seized must be input to C-NET which will issue a unique national seizure number for each seizure.

4.13 Notice of Claim against a Seizure

Where the seizure of goods or conveyances occurs under section 34 of Customs Act 2015, a Notice of Claim contesting a seizure can be made under section 19 of Customs Act 2015 within 30 days of the date of the seizure or the issuing of the Notice of Seizure, whichever is applicable. Where the seizure of goods or conveyance occurs under section 141 of Finance Act 2001, a Notice of Claim contesting a seizure can be made under section 127 of Finance Act 2001 within one month of the date of the seizure or the issuing of the Notice of Seizure, whichever is applicable.

Any Notice of Claim received should be acknowledged without comment and the Notice of Claim should be immediately forwarded to Revenue's National Prosecutions and Seizures Office, Bridgend, Co. Donegal, whether or not the notice appears to have been made within the specified time limit.

4.14 Seizure and detention of cash that is suspected to be associated with criminal activity

Section 38(1A) of Criminal Justice Act 1994, as amended, provides officers of the Revenue Commissioners with the power to seize and detain any cash, including cash found during a search under section 38(1), if –

- its amount is not less than the prescribed sum of €1,000, and
- s/he has reasonable grounds for suspecting that it directly or indirectly represents the proceeds of crime or is intended by any person for use in any criminal conduct.

Authorised Revenue Officers have a statutory power to seize and detain cash, where it is suspected to be crime-related, and in excess of the prescribed sum of €1,000, anywhere in the State. This power does not allow for the search of a person anywhere other than at a point of import or export.

See Tax and Duty Manual [Guidelines on Cash Seizures for further details.](#)

4.15 Detention, Seizure and Forfeiture

Detention Seizure Forfeiture		Table 1/3	
Activity	Detention	Seizure	Forfeiture
Cash			
Cash that is suspected to be associated with criminal activity	Section 38(2) Criminal Justice Act 1994	Section 38(1A) Criminal Justice Act 1994	Section 39(1) Criminal Justice Act 1994
Customs Control			
Conveyances Note: A 'conveyance' is any vessel, aircraft, vehicle or other means of transport used in the transportation of goods or passengers.	Section 33(2) Customs Act 2015	Section 34(1) Customs Act 2015	Section 17 Customs Act 2015
Excisable Products – Imports	Section 33 Customs Act	Section 34 Customs Act	Section 17 Customs Act

	2015	2015	2015
Excisable Products – Exports	Section 33 Customs Act 2015	Section 34 Customs Act 2015	Section 17 Customs Act 2015
Search of person	Section 30(b)(ii) Customs Act 2015	Section 30(b)(ii) Customs Act 2015	Section 17 Customs Act 2015
Search of premises or land	Section 29(2) Customs Act 2015	Section 29(2) Customs Act 2015	Section 17 Customs Act 2015

Seizure Detention and Forfeiture		Table 2/3	
Activity	Detention	Seizure	Forfeiture
Marked Mineral Oil (Found in Bulk Tank)			
Mineral Oil Unmarked oil or oil that is imported without payment of excise duty			Section 125 Finance Act 2001 or Section 102(5) Finance Act 1999
Oil that contains markers required under excise law or by another Member State	Section 140(1)	Section 141	Section 102(5) Finance Act 1999

<p>Vehicle</p> <p>Unmarked oil or oil that is imported without payment of excise duty</p>			<p>Section 125 Finance Act 2001 or Section 102(6) Finance Act 1999</p>
<p>Oil that contains markers required under excise law or by another Member State</p> <p>Note: Forfeiture may only occur where certain criteria are met⁴</p>			<p>Section 125 Finance Act 2001 or Section 102(6) Finance Act 1999</p>

⁴ Section 102(6) Finance Act 1999 provides for forfeiture of a vehicle:

- Where concealed tank, container or similar device is involved, or
- The owner or person in charge does not have a permanent address in the State, or
- Proof of payment of mineral oil tax at the appropriate rate is not produced (in practice, this provision should not constitute the sole basis for enforcement action), or
- The offence is a second or subsequent offence by the person concerned.

Seizure, Detention and Forfeiture			Table 3/3
Activity	Detention	Seizure	Forfeiture
Marked Mineral Oil (Found in Fuel Tank)			
Mineral Oil Covers all mineral oil containing markers (Irish markers and other markers)	Section 140(1) Finance Act 2001	Section 141 Finance Act 2001 ⁵	Section 102(5) Finance Act 1999
Vehicle (Irish markers and other markers)	Section 140(1) Finance Act 2001	Section 141 Finance Act 2001	Section 102 (6) Finance Act 1999 ⁶
Marked Mineral Oil (Breaches of Mineral Oil Regulations)			
Oil	Section 140(1) Finance Act 2001	Section 141 Finance Act 2001	Section 102(5) Finance Act 1999
Conveyance	Section 140(1) Finance Act 2001	Section 141 Finance Act 2001	Section 125(3) Finance Act 2001
Oil Laundries and Laundered Oil			
Mineral oil found at the place, prohibited goods, or any conveyance or container used in the carriage, storage or concealment of such mineral oil or prohibited goods.	Section 140(1) Finance Act 2001	Section 141 Finance Act 2001	Section 102(7) Finance Act 1999 (Oil, equipment vehicles, etc.)
VRT			

Detention and seizure may occur for certain VRT offences (see section 4.3 of this manual).	Section 140(3) Finance Act 2001	Section 141 Finance Act 2001	Section 139(6) Finance Act 1992
--	---------------------------------------	------------------------------------	---------------------------------------

4.16 Search of Person

Search of Person		Table 1/2
The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)		
Activity	Legal Provision	Summary Statement of Provision
Cash (person suspected to be associated with criminal activity)	Section 38 Criminal Justice Act 1994	<p>An officer of Customs and Excise may search a person if the officer has reasonable grounds for suspecting</p> <p style="padding-left: 40px;">that the person is importing or exporting or intends to import or export cash that is derived from, or is intended to be used for, criminal activity.</p> <p>An officer of the Revenue Commissioners may seize an amount of cash:</p> <ul style="list-style-type: none"> ▪ That is not less than €1,000 ▪ That is suspected to be derived from or intended to be used for criminal activity ▪ The cash seized shall not be detained beyond 48 hours unless authorised by an order from Judge of the District Court.
Coast (vicinity of)	Section 30 Customs Act 2015	A Customs Officer at or in the vicinity of the coast may search a person if there is reasonable cause to suspect that the person is in possession of anything liable to forfeiture or records relating to transactions in contravention of the Customs Acts. The officer may examine, seize and detain anything found in the course of the search.
Conveyance	Section 30 Customs Act 2015	Having boarded a conveyance, a Customs Officer may search a person if there is reasonable cause to suspect that the person is in possession of anything liable to forfeiture or records relating to transactions in contravention of the Customs Acts. The officer may examine seize and detain anything found in the course of the search.

Search of Person

Table 2/2

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Land Frontier	Section 30 Customs Act 2015	A Customs Officer at or in the vicinity of the land frontier may search a person if there is reasonable cause to suspect that the person is in possession of anything liable to forfeiture or records relating to transactions in contravention of the Customs Acts. The officer may examine seize and detain anything found during the search.
Port or Airport	Section 30 Customs Act 2015	A Customs Officer at or in the vicinity of a port or airport may search a person if there is reasonable cause to suspect that the person is in possession of anything liable to forfeiture or records relating to transactions in contravention of the Customs Acts. The officer may examine seize and detain anything found during the search.
Search Warrant (premises or land subject of a search warrant)	Section 30 Customs Act 2015	A Customs Officer at or in the vicinity of land or premises subject to a search warrant, issued under section 29 of the Customs Act 2015, may search a person if there is reasonable cause to suspect that the person is in possession of anything liable to forfeiture or records relating to transactions in contravention of the Customs Acts. The officer may examine seize and detain anything found during the search.

VAT Information Exchange System (VIES)	Section 108(2)(c) VAT Consolidation Act 2010	An authorised officer may enter any premises that the officer believes anything is done in connection with a business and request the production of books, records, accounts or other documents connected to the business. If the officer believes that a person is carrying or has possession of records required as evidence in criminal proceedings the officer may search that person.
--	--	--

4.17 Arrest of Person

Arrest of Person		
Specific authority at AP level required to request assistance from An Garda Síochána		
Activity	Legal Provision	Summary Statement of Provision
Bookmaking	Section 25(3) Betting Act 1931	A Garda may arrest any person who refuses or fails to produce to a Garda or Customs Officer his/her Bookmaking Licence or to give his/her name and address.
Specific authority at PO level is required to use the following powers		
Activity	Legal Provision	Summary Statement of Provision
Customs Offences	Section 32 Customs Act 2015	A Customs Officer may arrest a person without warrant where there are reasonable grounds to suspect that the person has committed an offence under section 14 or section 15 of the Customs Act 2015 or any provision of the Taxes Consolidation Act 1997.
Evasion of excise duty	Section 139 (1) Finance Act 2001	An officer or Garda may arrest without warrant a person who s/he reasonably suspects has committed or is committing an offence (under section 119 Finance Act 2001) in relation to the evasion of excise duty.
Failure to accompany a Customs Officer to a place for the purpose of being searched	Section 30 Customs Act 2015	A Customs Officer who has decided to search a person under section 30 of the Customs Act 2015 may require that person to accompany him/her to a customs office or other place for the purpose of being searched. A Customs Officer may arrest without warrant any person who fails to comply with this request.

Illicit production of alcohol products	Section 139(1) Finance Act 2001	An officer may arrest a person reasonably suspected of committing the following offences (under section 79(5) Finance Act 2003): <ul style="list-style-type: none"> ▪ illicit production or processing, or attempted illicit production or processing, of alcohol products ▪ to remove, to attempt to remove or to be knowingly concerned in the removal of alcohol denaturants ▪ dealing in illicit alcohol products ▪ keeping prohibited goods on a vehicle or in a premises or place deliver any illicit alcohol product or prohibited goods.
Mineral Oil	Section 139(1) Finance Act 2001	An officer or Garda may arrest without warrant a person who s/he reasonably suspects has committed or is committing an offence of oil laundering or dealing in laundered oil.

4.18 Miscellaneous Powers

Miscellaneous Powers		Table 1/2
Specific authority at PO level is required to use these powers		
Activity	Legal Provision	Summary Statement of Provision
Detain a person (Controlled Drugs / Internal Concealments)	Section 30(5) Customs Act 2015	Where a Customs Officer has reasonable grounds to suspect that a person is in possession of a controlled drug or other thing that is concealed internally then the officer may detain the person and, as soon as is practicable, will bring or present the person to a member of An Garda Síochána.
Detain a person (Excise Duty on Tobacco Products)	Section 139(2)(a) Finance Act 2001	Where an officer has reasonable grounds to believe that a person is committing or has committed an offence under Section 10A (inserted by the Finance Act 1994) of the Finance (Excise Duty on Tobacco Products) Act 1977, then such an officer may detain the person and, as soon as practicable thereafter (i)present the person, or (ii) bring and present the person, to a member of An Garda Síochána.

The use of these powers for non-routine operations of an intense or sensitive nature requires specific authority at AP level (or at HEO level in AP's absence)

Activity	Legal Provision	Summary Statement of Provision
Export Examination and Clearance	Section 28 Customs Act 2015	A Customs Officer may examine any goods that have been imported, declared for export or are otherwise under customs control. The officer may take samples of the goods, require the goods to be taken to a place that s/he considers appropriate, require the importer/exporter or agent to open, unpack or repack any container or package containing the goods or require all necessary facilities or assistance required for the examination.

Miscellaneous Powers		Table 2/2
Specific authority at PO level is required to use these powers		
Activity	Legal Provision	Summary Statement of Provision
Light Dues	Section 650(2), Merchant Shipping Act, 1894	An officer of Customs and Excise, having detained goods, guns, tackle or anything belonging to or on board a ship may, if payment of the light dues has not been made within three days following detention, have the detained goods, etc. valued by two independent people or sworn appraisers and may then sell the goods, etc. and apply the proceeds in payment of the light dues together with all reasonable expenses incurred and may pay the surplus (if any) on demand to the owner or master of the ship.
Prosecuting Cases	Section 27 Inland Revenue Regulation Act 1890	An officer of Customs and Excise authorised by the Revenue Commissioners may conduct proceedings before Justices in relation to Excise or matters under the care and management of the Revenue Commissioners.
Specific authority at Commissioner level is required in each case. Applications are to be made using the approved template to the Assistant Secretary, Investigation, Prosecution and Frontier Management Division		
Activity	Legal Provision	Summary Statement of Provision
Investigating Offences Obtaining information from Financial Institutions	Section 908A Taxes Consolidation Act 2001	An officer specifically authorised under this section may, with the written consent of a Revenue Commissioner, seek an order from a judge authorising the officer to inspect and take copies of any entries in the books, records or other documents held by a financial institution. This is authorised for the purpose of investigating an offence under the Acts in connection with the evasion or attempted evasion of any duty or tax.

Chapter 5

Customs and Excise Offences

5 CHAPTER 5 Customs and Excise offences

5.1 Customs offences

This section outlines the main Customs offences that can be encountered by an officer. The primary enforcement legislation is contained in the Customs Act 2015. The summaries provided are for general guidance only. Officers should review the full text of the legislation concerned to gain a full understanding of the relevant offence.

5.1.1 Offences relating to the control of persons and their baggage

Offence: Failure to comply with Customs Controls	Offence Section
A person who fails to comply with subsection 12(1)(a), which requires a person entering or leaving the State to declare goods which are liable to duty or tax or are prohibited or restricted on importation or exportation, commits an offence.	Section 12(1)(a) Customs Act 2015
A person who fails to comply with subsection 12(1)(b), which requires a person entering or leaving the State to answer questions when questioned by an officer of customs in respect of their arrival or departure, in respect of their identity, usual place of residence and address within the State and about their baggage, as well as anything brought by that person by whatever means, commits an offence.	Section 12(1)(b) Customs Act 2015
<p>Penalty</p> <p>On summary conviction, a fine of €5000.</p>	

5.1.2 Offences relating to the control of movement of aircraft

Offence: Failure to comply with Customs Controls	Offence Section
Section 10(1) requires the pilot-in-command of an aircraft entering the State to arrive at an appointed customs airport. This requirement applies unless otherwise authorised or exempted by the Commissioners.	Section 10(1) Customs Act 2015
Section 10(2) requires the pilot-in-command of an aircraft departing the State to depart from an appointed customs airport. This requirement applies unless otherwise authorised or exempted by the Commissioners.	Section 10(2) Customs Act 2015
Section 10(3) requires that any landing or departure from a customs airport must be in compliance with the conditions or restrictions attaching to the appointment of that airport as a customs airport.	Section 10(3) Customs Act 2015
Section 10(4) and (5) require the pilot-in-command to ensure that all goods etc. are loaded or unloaded, and all passengers etc. are embarked or disembarked, only at a place approved under section 7(1) (b) or 7(1) (c) of the Act. This requirement applies unless otherwise authorised or exempted by the Commissioners.	Section 10(4), (5) Customs Act 2015
Section 10(7) obliges the pilot-in-command of an aircraft departing the State not to re-enter the State except at a customs airport, unless the aircraft is compelled to do so due to force majeure (such as accident, adverse weather, etc.) or is required by law or other requirements relating to aviation.	Section 10(7) Customs Act 2015
Section 10(8) and (10) lay down the procedures to be followed on landing at a place other than a customs airport. The pilot-in-command should contact customs and comply with any directions given to him or her by customs.	Sections 10(8),10(10) Customs Act 2015

Section 10(9) requires the operator of the airport to notify customs of any arrivals or departures in contravention of the conditions of appointment of that airport.

Section 10(9)
Customs Act
2015

Penalty

On summary conviction, a person is liable to a fine of €5,000.

5.1.3 Offences relating to the control of movement of vessels

Offence: Failure to comply with Customs Controls	Offence Section
S 8(1) requires the master of a vessel entering the State to berth at a customs port in a place approved under section 7(1). It also requires the master to ensure that all goods are unloaded and all passengers disembarked only at a place approved under section 7(1) of the Act. This requirement applies unless otherwise authorised or exempted by the Commissioners.	Section 8(1) Customs Act 2015
Section 8(3) requires the master of a vessel departing the State to ensure that the vessel only departs from a place approved under section 7(1). It also requires the master to ensure that all goods are loaded and all passengers embarked only at a place approved under section 7(1). This requirement applies unless otherwise authorised or exempted by the Commissioners.	Section 8(3) Customs Act 2015
A person who fails to comply with section 8(4), which obliges the master of a departing vessel not to allow the vessel to re-enter the State except at a place approved under section 7(1) (unless for reasons of force majeure, is obliged by law or other requirement relating to navigation), commits an offence.	Section 8(4) Customs Act 2015
A person who fails to comply with section 8(5) and 6), which requires the master of a vessel arriving at a place not approved under section 7(1) (due to force majeure or being obliged by law) to notify customs within the relevant timeframe, and comply with any direction given to him/her, commits an offence.	Section 8(5) and (6) Customs Act 2015
<p>Penalty</p> <p>On summary conviction, a person is liable to a fine of €5,000.</p>	

5.1.4 Offences relating to the control of postal traffic

Offences: Failure to Comply with Customs Controls	Offence Section
<p>Section 13(7) provides for the payment and collection of any tax or duty payable in a postal packet in cross-border mail.</p> <p>Where the duty or tax payable, the value of which falls below the threshold for which a declaration for free circulation is required under the Customs Code, the postal authority is required to collect and pay over any such duty or tax payable to the Commissioners.</p> <p>Where the addressee does not accept the postal package and the duty or tax payable on it is not collected, the postal authority is required to return the postal packet to the sender.</p> <p>Where the sender of the postal packet cannot be identified and where the postal packet is subsequently sold or disposed of, as opposed to being destroyed, by or at the request of the postal authority, any tax or duty payable on it must be paid to the Commissioners within 30 days of its disposal.</p>	<p>Section 13(7) Customs Act 2015</p>
<p>Section 13(8) specifies the duties and obligations of the postal authority with regard to customs operations for the examination of cross-border mail, including bringing the package to a place suitable for its examination; opening, unpacking and repacking the package; providing any facilities and assistance required for such examination; or taking samples of the goods.</p>	<p>Section 13(8) Customs Act 2015</p>
<p>Penalty</p> <p>On summary conviction, a person is liable to a fine of €5,000.</p>	

5.1.5 Offences relating to reporting of inward and outward aircraft

Offence	Offence Section
<p>Section 11(1) and (2) requires the pilot-in-command of an aircraft entering or departing the State to submit a report of the</p>	<p>Section 11(1) and (2)</p>

aircraft to Revenue and answer all questions relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board, put to him or her by a customs officer.	Customs Act 2015
Penalty	
On summary conviction, a person is liable to a fine of €5,000.	

5.1.6 Offences relating to improper import or export of goods

Offence	Offence Section
Any person who evades or attempts to evade any duties of customs applicable to the importation of goods commits an offence.	Section 14(1)(a) Customs Act 2015
Any person who takes possession, custody or charge of, or removes, transports, deposits or conceals, or otherwise deals with any goods liable to customs duties on importation, with intent to defraud the State of such duties, commits an offence.	Section 14(1)(b) Customs Act 2015
Any person concerned in the importation into the State of prohibited or restricted goods commits an offence.	Section 14(1)(c) Customs Act 2015
Any person who takes possession, custody or charge of, or removes, transports, deposits or conceals, or otherwise deals with any goods contrary to any prohibition or restriction on importation of those goods, commits an offence.	Section 14(1)(d) Customs Act 2015
Any person who evades or attempts to evade any customs duties applicable to the exportation of goods commits an offence.	Section 14(1)(e) Customs Act 2015
Any person concerned in the exportation from the State of prohibited or restricted goods commits an offence.	Section 14(1)(f) Customs Act 2015

Penalty

On summary conviction, a person is liable to a fine of €5000 and/or up to 12 months imprisonment.

On conviction on indictment, a person is liable to a fine of €125,000, or where the value of the goods (including the duty and tax payable on them) is greater than €250,000, three times that value, and/or up to 5 years imprisonment.

5.1.7 Miscellaneous Customs Offences

Offence	Offence Section
Failure to comply with any lawful obligation imposed under Part 4 of the Customs Act 2015 <i>"Powers of Officers"</i> .	Section 15(1)(a) Customs Act 2015
Rescuing, damaging or destroying anything liable to forfeiture or preventing the securing of evidence.	Section 15(1)(b) Customs Act 2015
Destroys or throws overboard any goods in order to prevent the seizure of those goods.	Section 15(1)(c) Customs Act 2015
Makes any signal or other communication with the intention to aid or assist the unlawful importation or exportation of goods.	Section 15(1)(d) Customs Act 2015
Prevents the arrest of any person by an officer of customs or rescues an arrested person.	Section 15(1)(e) Customs Act 2015
Damages any customs property or equipment.	Section 15(1)(f) Customs Act 2015
Injures, abducts or kills a customs dog without lawful authority or reasonable excuse.	Section 15(1)(g) Customs Act 2015
Knowingly removes or tampers with a customs seal or lock.	Section 15(1)(h) Customs Act 2015
Adapting a conveyance for smuggling purposes.	Section 15(1)(i) Customs Act 2015

Counterfeits or falsifies any customs seal or signature.	Section 15(1)(j) Customs Act 2015
Aiding or abetting in the commission of any of the above offences.	Section 15(1)(k) Customs Act 2015
Penalty	
On summary conviction, a person is liable to a fine of €5,000 or imprisonment for a term not exceeding 12 months or both.	

5.1.8 Normal Supporting Material regarding the Commission of an Offence

The material required to support an offence must be determined on a case-by-case basis according to the particular facts of each situation. The court will require sworn evidence in relation to the goods which are the subject of the alleged offence such as

- Description and classification,
- Quantity and value,
- Origin,
- The liability to customs duties or to a prohibition or restriction in force at the time of their importation.

Where necessary, evidence of (a) the importation or exportation of the goods, and (b) the person who was in possession or control of the goods may be required.

Where appropriate the documentary evidence should include:

- Entries/declarations (where they exist) and supporting documentation,
- Documentation (including correspondence) relating to the ordering, acquiring and payment for goods.

In instances of fraud or evasion, the court may require evidence which demonstrates that:

- The duty has not been paid,
- The person was in possession of the products,
- The person was knowingly concerned in the evasion of duty (ideally, an admission of guilt under caution or having been caught in the act),
- No declaration was made,

- Note also the presumptions in relation to burden of proof, etc. in taking proceedings contained in section 131 of Finance Act 2001.

In the case of counterfeit goods, it will be presumed that excise duty has not been paid until the contrary is proved.

A person may challenge the estimated value of the goods by notice to the prosecution before the commencement of the period of 4 days ending immediately before the date fixed for the hearing of the proceedings in the District Court, unless a later date is given by permission of the Court.

Where three times the value of the goods, which are the subject of a customs offence, exceeds €1,900 then the offence is to be tried on indictment. The value of goods shall be taken as the price that would be expected to fetch on the open market. In the case of prohibited goods, the value is to be taken as the price that such goods could be expected to fetch on the market for the unlawful sale or supply of such prohibited goods.

Where the value placed on the goods is challenged by the defendant, the judge in the District Court will determine their value before proceeding with the case.

5.2 Excise Offences: Introduction

Council Directive 2008/118/EC outlines the EU's general arrangements for products subject to excise duty and on the holding, movement, monitoring and control of such products within the EU. The national enabling legislation is contained in sections 96 to 117 of Finance Act 2001.

The offences associated with the movement of excisable products relate to -

- Importation,
- Exportation, and
- Fraudulent exemption or repayment/remission claims.

Other offences related to excisable products include the illegal production, processing and holding of excisable products.

5.2.1 Evasion of Excise Duty Offences

Offence	Offence Section
Taking possession, custody or charge of, or removing, transporting, depositing or concealing, or otherwise dealing with, excisable product, with intent to defraud the State of the duty involved, either directly or indirectly.	Section 119(1) Finance Act 2001
Evasion or attempted evasion of excise duty.	Section 119(2) Finance Act 2001
Keeping for sale, selling or delivering unexcised alcohol products including counterfeit alcohol products.	Section 79(7) Finance Act 2003
Penalty	
<p>On summary conviction, a person is liable to a fine of €5,000 and/or imprisonment for a term not exceeding 12 months.</p> <p>On conviction on indictment, a person is liable to a fine not exceeding €126,970, or where the value of the excisable products concerned (including any duty or tax chargeable) is greater than €250,000, three times the value of those products, and/or imprisonment for a term not exceeding 5 years.</p>	

5.2.2 Marked Mineral Oil/Laundered Oil Offences

Offence	Offence Section
To contravene or fail to comply with the provisions of Chapter 1 of Part 2 of Finance Act 1999 or any regulation made under section 104 of Finance Act 1999, or any condition imposed by Chapter 1 of Part 2 of Finance Act 1999.	Section 102 (1)(a) Finance Act 1999
To use as a propellant or keep in a fuel tank any mineral oil (e.g. gas oil, kerosene, substitute fuel, etc.) on which mineral oil tax at the appropriate standard rate has not been paid.	Section 102(1)(b)(i) Finance Act 1999
To use as a propellant or keep in a fuel tank any mineral oil (e.g. gas oil, kerosene, substitute fuel, etc.) containing one or more of the markers prescribed by regulation.	Section 102(1)(b)(ii) Finance Act 1999
To use as a propellant or keep in a fuel tank any mineral oil (e.g. gas oil, kerosene, substitute fuel, etc.) containing any marker required by another Member State.	Section 102(1)(b)(iii) Finance Act 1999
To produce, sell or deal in, keep for sale or delivery, or deliver any mineral oil (other than additives) for use as a propellant, or any aviation gasoline, where that person is not the holder of an auto-fuel trader's licence.	Section 102(1)(d) Finance Act 1999
To produce, sell or deal in, keep for sale or delivery, or deliver any gas oil or kerosene that is liable to a rate lower than the appropriate standard rate, where that person is not the holder of a marked fuel trader's licence.	Section 102(1)(e) Finance Act 1999
Where the holder of an auto-fuel trader's licence or a marked fuel trader's licence fails to display the licence at the premises or place to which that licence relates.	Section 102(1)(f) Finance Act 1999
To contravene, or fail to comply with, a temporary prohibition of trade order under section 102A of Finance Act 1999.	Section 102(1)(g) Finance Act 1999
To invite an offer to treat for, offer for sale, keep for sale, or to sell, any mineral oil on which mineral oil tax at the appropriate standard rate has not been paid, any mineral oil containing one or more of the markers prescribed by regulation, or any mineral oil containing any marker required by another Member State.	Section 102(1A)(a) Finance Act 1999

To deliver, keep for delivery, or to be in the process of delivering, or to keep for use as a propellant any mineral oil on which mineral oil tax at the appropriate standard rate has not been paid, any mineral oil containing one or more of the markers prescribed by regulations made under section 104 Finance Act 1999 as amended by section 85 Finance Act 2006, or any mineral oil containing any marker required by another Member State	Section 102(1A)(b) Finance Act 1999
To sell or keep for sale, or to deliver or to keep for delivery, any mineral oil to which a rate lower than the appropriate standard rate has been applied, and to which markers have, accordingly, been added as prescribed, where such person has failed to comply with a condition prescribed or otherwise imposed under section 97(3) Finance Act 1999, for the sale, keeping for sale, delivery or keeping for delivery (as the case may be) of such mineral oil.	Section 102(1B) Finance Act 1999
To remove or attempt to remove or be knowingly concerned in removing or attempting to remove any marker from any mineral oil. To knowingly deal in any mineral oil from which a marker has been removed, or to which anything has been added for the purpose of impeding the identification of a marker in any mineral oil, or to keep or have prohibited goods on any premises or other land or on any vehicle.	Section 102(3) Finance Act 1999
Failure to comply with the rules and regulations relating to the production, processing and holding of excisable products by a person or in a premise, whether approved or not.	Section 121 Finance Act 2001
Penalty	
<p>On summary conviction for an offence under section 102(1) of Finance Act 1999, a person is liable to a fine of €5,000 and/or the forfeiture of mineral oil, a conveyance, goods, mixing agents or accompanying equipment.</p> <p>On summary conviction for an offence under section 102(1A), (1B) or (3) of Finance Act 1999, a person is liable to a fine of €5,000 and/or a term of imprisonment not exceeding 12 months and/or the forfeiture of mineral oil, a conveyance, goods, mixing agents or accompanying equipment.</p> <p>On conviction on indictment under section 102(1A), (1B) or (3) of Finance Act 1999, a person is liable to a fine exceeding €126,970 and/or a term of imprisonment not exceeding 12 months and/or the forfeiture of mineral oil, a conveyance, goods, mixing agents or accompanying equipment.</p> <p>Where a person licensed under section 101 is convicted of an offence under section 102(1A), (1B) or (3)(b) or an offence in relation to mineral oils under section 119 of the Finance Act 2001, then the Court shall, in addition to any other penalty imposed, make a temporary prohibition of trade order prohibiting the sale or supply of any mineral oil from any premises licensed in respect of such person for a period of up to 30 days.</p>	

A person found guilty of an offence under section 121 of Finance Act 2001 is also liable to an administrative penalty of €1,500.

Supporting Material

- A certificate of analysis indicating the presence of markers issued by the State Chemist,
- In the case of premises or land, evidence of title/ownership or lease, and
- Expert witnesses, where appropriate.

Presumptions in certain proceedings

Officers should be cognisant of the presumptions in certain proceedings laid out in section 103 Finance Act 1999 as amended.

5.2.3 Excisable Products

5.2.3.1 Guidelines for investigating whether excisable products were acquired for commercial purposes

Under section 104(2)(a) of Finance Act 2001, a private individual is entitled to acquire duty paid excisable products in another member state and to transport them into the State provided they are for his/her own use and not for commercial purposes, and the individual concerned travels with the goods.

Regulation 25 of S.I. No. 146/2010 Control of Excisable Products Regulations 2010 sets out the guidelines concerning limits and criteria whereby products may be regarded as being acquired for commercial purposes.

When forming an opinion on whether products were acquired for commercial purposes, the quantity alone cannot determine that the acquisition is of a commercial nature. "Personal use" can be taken as applying to private individuals and their families generally and may include an event such as a wedding, birthday party, anniversary, etc. where the individual would be responsible for providing the goods in question at his/her own expense. In instances where there is an absence of an acceptable reason for the quantity of goods, then sufficient inferences can be drawn from the amount of product concerned.

To support a successful prosecution case, it must be demonstrated that there was sufficient evidence that the products were acquired for a commercial purpose. To demonstrate this the following information, which is not exhaustive, should be sought when questioning a suspect following a detection:

- The reason for possession of the products. If the person claims that they are for a particular function, details should be obtained, including when and where the function is to be held.
- The suspect's occupation
- Whether s/he previously imported such products and, if so, the frequency of such imports
- The frequency with which s/he travels to other Member States
- Whether the person travels regularly and why was a purchase of a considerable quantity made on one trip
- The composition of his/her family and whether adult or juvenile
- The method of payment for the products
- Where the goods were purchased and whether receipts are available (in order to obtain evidence that the goods have been released for consumption in other Member States). In the absence of receipts, evidence of the markings

on the products should be shown to a representative of the manufacturer who may be required to subsequently provide evidence in Court.

- The source of the funds used to purchase the goods (depending on the means of the person concerned)
- The consumption per day or week of such products by the person concerned or the consumption of family members.

5.2.4 Excisable Product Offences

Offence	Offence Section
Failure to comply with the rules and regulations relating to the importation of excisable products which have been duty paid in other Member States.	Section 121(a) Finance Act 2001
Possession by a third party of excisable products knowing that the legal requirements relating to notification and duty payment have not been fulfilled.	Section 121(b) Finance Act 2001
Penalty	
<p>A person is liable on summary conviction to a fine of €5,000.</p> <p>Section 125 of Finance Act 2001 also provides for the forfeiture of goods and conveyances associated with an excisable product offence under section 121 of Finance Act 2001.</p>	
Normal supporting material	
<p>Evidence of:</p> <ul style="list-style-type: none"> ▪ Goods duty paid in another Member State, ▪ Importation, ▪ Quantity being commercial (See section 5.2.3 for guidance on determining if products are for commercial purposes), ▪ Notification of movement not provided, ▪ Duties not secured in advance of movement, ▪ Possession/control of non-duty paid products, ▪ Knowledge by the offender of the status of the products. 	
Offence	Offence Section
Failure of a 'tax representative' (as defined by Finance Act 2001) to comply with the conditions of approval.	Section 121

	Finance Act 2001
Penalty	
<p>A person is liable on summary conviction to a fine of €5,000.</p> <p>Section 125 of Finance Act 2001 also provides for the forfeiture of goods and conveyances associated with an excisable product offence under section 121 of Finance Act 2001.</p>	
Normal supporting material	
<p>The officer must show that:</p> <ul style="list-style-type: none">▪ The person was approved as a tax representative,▪ S/he was acting in that capacity in relation to the excisable products complained of,▪ S/he acted outside the terms and conditions of approval,▪ The products were imported,▪ Excise duty was not paid.	

Offence		Offence Section
Failure to comply with regulations governing the movement into the State of excisable products released under the duty suspension system in another Member State for export to Ireland.		Section 121 Finance Act 2001
Penalty		
<p>A person is liable on summary conviction to a fine of €5,000.</p> <p>Section 125 of Finance Act 2001 also provides for the forfeiture of goods and conveyances associated with an excisable product offence under section 121 of Finance Act 2001</p>		
Normal supporting material		
<p>Evidence that:</p> <ul style="list-style-type: none"> ▪ A warehouse keeper acted outside the terms of approval, ▪ Evidence that others, in possession of excisable products released under duty suspension in another Member State, failed to comply with the criteria laid down in Finance Act 2001, ▪ Evidence that the products were imported and that excise duty was not paid, ▪ Knowledge by the offender, found in possession of the products, of the status of the products. 		
Offence		Offence Section
Failure by persons in charge of excisable products released under duty suspension to carry the required documentation.		Section 121 Finance Act 2001
Penalty		
<p>A person is liable on summary conviction to a fine of €5,000.</p> <p>Section 125 of Finance Act 2001 also provides for the forfeiture of goods and conveyances associated with an excisable product offence under section 121 of Finance Act 2001.</p>		
Normal supporting material		
The officer must demonstrate:		

- Non-possession of the relevant documentation,
- That the relevant documentation was not prepared at the time of dispatch.

Offence	Section Act
Exportation, without approval as a State vendor, of excisable products, released for consumption in the State (duty paid products) to a private individual for that individual's own use.	Section 121 Finance Act 2001
Importation, without approval as a Tax Representative for a non-State vendor, of excisable products, released for consumption in another Member State.	Section 121 Finance Act 2001
Penalty	
A person is liable on summary conviction to a fine of €5,000 (section 124 Finance Act 2001). Section 125 of Finance Act 2001 also provides for forfeiture of goods and conveyances associated with the offence.	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Absence of an approval, or, if approved, evidence of non-compliance with the terms of approval, ▪ Evidence that the goods were released for export e.g. sale of goods by a State resident under the zero VAT scheme to a company/citizen of another Member State, ▪ Evidence of the goods themselves and their status. 	
Offence	Offence Section
Failure by an authorised warehouse keeper to comply with the conditions governing the release of duty-suspended excisable products from a tax warehouse in the State for delivery to another Member State.	Section 121 Finance Act 2001
Penalty	
A person is liable on summary conviction to a fine of €5,000 (section 124 Finance Act 2001). Section 125 also provides for forfeiture of goods and conveyances associated with the offence.	
Normal supporting material	

- Evidence that duty-suspended goods were irregularly released for export,
- Evidence of non-compliance with warehouse keeper's conditions of approval,
- Evidence that the goods were delivered to a person who was not entitled to receive duty-suspended goods,
- Failure to produce a receipt for the goods.

Offence	Offence Section
Submission of a fraudulent claim or return in relation to the repayment of excise duty on excisable products	Section 121 Finance Act 2001 Section 1078 TCA 1997 carries heavier penalties than Finance Act 2001
Penalty	
Liable on summary conviction to a fine of €5,000 (section 124 Finance Act 2001).	
Normal supporting material	
<p>The officer must demonstrate that -</p> <ul style="list-style-type: none"> ▪ The substance of the claim is false, ▪ The goods were not dispatched from the State, or ▪ The goods were returned to the State having been exported, or ▪ The quantity on which the claim is based is incorrect. 	
Offence	Section Act
Submission of any incorrect return, statement or accounts or to furnish any incorrect information for the purposes stated in section 122.	Section 121 Finance Act 2001 Section 1078 TCA 1997 carries heavier penalties than Finance Act 2001
Penalty	
<p>Liable on summary conviction under section 124 of Finance Act 2001 to a fine of €5,000.</p> <p>Liable on summary conviction under section 1078 TCA 1997 to a fine of €5000 and/or up to 12 months imprisonment.</p> <p>Liable on indictment under section 1078 TCA 1997 to a fine of up to €126,970 and/or up to 5 years imprisonment.</p>	
Normal supporting material	

The officer must provide documentary evidence which demonstrates that the exemption claim is false.

Offence	Offence Section
Resisting, obstructing or impeding an officer in the exercise of powers relating to excisable products.	Section 1078(2)(j), TCA 1997
Penalty	
Liable on summary conviction under section 1078 TCA 1997 to a fine of €5000 and/or up to 12 months imprisonment. Liable on indictment under section 1078 TCA 1997 to a fine of up to €126,970 and/or up to 5 years imprisonment.	
Normal supporting material	
<ul style="list-style-type: none">▪ Clear evidence of obstruction, preferably by more than one officer (statement of officer and witness, if any),▪ Positive identification of the person who committed the obstruction.	

Offence	Offence Section
<p>Failure to comply without sufficient excuse with a requirement imposed under Chapter 4 of Part 2 of Finance Act 2001.</p> <p>Examples of requirements imposed under Chapter 4 of Part 2 of the Finance Act 2001 include to-</p> <ul style="list-style-type: none"> ▪ Allow entry to premises where excisable products are being processed, held, etc., ▪ Allow search for and inspection of books, documents, ▪ Provide information required by an officer, ▪ Provide a name and address, ▪ Provide false or misleading information (including false name/address). 	<p>Section 123 Finance Act 2001</p>
Penalty	
<p>Liable on summary conviction to a fine of €5,000 under section 124 of Finance Act 2001.)</p>	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence of failure to comply with a legitimate request to allow entry, search, inspection, etc., ▪ Clear evidence of obstruction, preferably by more than one officer (statement of officer and witness, if any), ▪ Evidence of failure to provide name/address or of false name/address supplied, ▪ Evidence to show that information provided by the person is false or misleading. 	
Offence	Offence Section
<p>Failure, without lawful and sufficient excuse, to comply with any requirement imposed under any provision of Part 4 of the Customs Act 2015, including the power to stop, board, search and detain conveyances (any vessel, aircraft, or vehicle).</p>	<p>Section 15(1)(a) Customs Act 2015</p>
Penalty	
<p>Liable on summary conviction to a fine of €5,000 and/or a term of imprisonment not</p>	

exceeding 12 months (section 15 Customs Act 2015).

Forfeiture of goods (section 17 Customs Act 15)

Normal supporting material

- Clear evidence of obstruction, preferably by more than one officer (statement of officer and witness, if any),
- Positive identification of the person who committed the obstruction.

5.3 Vehicle Registration Tax (VRT) Offences

5.3.1 Introduction

Except where relief or exemption from the tax applies, VRT is chargeable on registration of a vehicle in the State. All motor vehicles in the State, other than those brought in temporarily by visitors, must be registered with Revenue. Staff should have particular regard to the following:

- The chargeable event is upon:
 - Registration,
 - Declaration of conversion,
 - Declaration of change of use for vehicles with transfer of residence (TOR) restrictions.
- There is a time lag between the arrival of a vehicle in the State and when registration becomes legally due. Unregistered vehicles, except those which qualify for an exemption, are required to be registered no later than 30 days following their arrival in the State. In the case of vehicles held by authorised dealers, registration becomes legally due when a vehicle is brought into first use on the roads.

5.3.2 Overall Strategy – Voluntary Compliance

One of the core objectives of Revenue is to maximise voluntary compliance and deter evasion/avoidance. Revenue's policy in relation to VRT involves the following sequence of actions:

- Increase public awareness of the legal requirement to register/pay and the penalties for non-compliance,
- Issue demands for first offences arising from short term delays in registration,
- Ensure prompt follow-up action where the first warnings/demands are ignored,
- Prosecute offenders where seizure is not appropriate, and
- Seize vehicles where demands are ignored or where there are aggravating circumstances.

Full details of these procedures are set out in [Section 5](#) of the VRT Manual which covers VRT enforcement.

5.3.3 Statute of Limitations

It should be noted that there is a one-year time limit within which VRT prosecution proceedings must be taken (section 126(5)(a) of Finance Act 2001) except –

- In the case of offences involving fraudulent repayment claims and certain obstruction cases where proceedings under section 1078(7) of Taxes

Consolidation Act 1997, can be taken up to 10 years after the offence was committed, and

- In the case of summary offences under section 119-122 of Finance Act 2001 where proceedings can be taken up to 3 years after the offence was committed (section 126(5)(b) of Finance Act 2001).

All offences should be reported promptly as a Judge may dismiss a case even within the time limit if s/he considers that there have been unnecessary delays.

The statute of limitations does not apply to detention/seizure of vehicles. However, the detention or seizure of a vehicle where a significant amount of time has passed since the offence was committed should only take place in exceptional circumstances and the action must be clearly justified.

5.3.4 Proofs required for successful VRT prosecutions

The tables below outline the main offences and penalties associated with VRT and the normal evidential material required for the various offences. The list of evidential material is not exhaustive. When cases are being submitted for prosecution, it must be ensured that reliable evidence is available and the basis on which decisions were made should be set out and substantiated.

5.3.5 VRT Offences - Categories of offence

VRT offences can be divided into four broad categories:

1. Offences connected to the registration or payment of VRT,
2. Offences committed specifically by persons authorised under section 136 of Finance Act 1992,
3. Offences associated with vehicle registration certificates, declarations, etc.,
4. Offences involving fraudulent repayment claims.

Details of the main offences which arise under each category are outlined below along with the legislative basis for each offence and the applicable penalties. Where the penalty includes a forfeiture provision, the vehicle concerned may be seized by an authorised officer under section 141 of Finance Act 2001.

5.3.6 VRT Offences: registration or payment of VRT

Offence	Offence Section
Making a false or misleading declaration under section 131 of Finance Act 1992.	Section 139(1)(a) Finance Act 1992
Penalty	
€5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the declaration contains false or misleading information, ▪ If possible, a cautioned statement from the person that the declaration is false or misleading, ▪ Evidence of examination of the vehicle concerned to confirm that the declaration contains false or misleading information, ▪ Original copy of the declaration in question. 	
Offence	Offence Section
To be in possession of a vehicle on which its registration plates are not displayed or are not displayed in the prescribed manner (section 131(6) of Finance Act 1992).	Section 139(1)(b) Finance Act 1992
Penalty	
€ 5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the vehicle has been registered in the State i.e. a certificate of registration from the National VRT Service (NVRTS), Ann Street, , Wexford Town, Co. Wexford. ▪ Evidence that the registration plates have not been displayed within 3 working days of registration. The relevant dates, times and locations must be quoted. ▪ Evidence that the registration plates have been displayed but they do not conform with the requirements of S.I. 318 of 1992 i.e. the place of display, colour, size, etc. ▪ Evidence that the vehicle was in the possession of a particular individual, preferably 	

in a public place, when the offence was detected.

- Evidence of any warnings issued.

Offence	Offence Section
Display of false/switched registration plates (section 131(6) of Finance Act 1992).	Section 139(1)(c) Finance Act 1992
Penalty	
€ 5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the vehicle has been allocated a different number from that displayed i.e. from the Vehicle Registration Certificate. ▪ Evidence that the number of the displayed registration plate does not refer to the vehicle in question. ▪ Evidence as to who was responsible for displaying the wrong registration plate on the vehicle; if possible by way of a cautioned statement. 	
Offence	Offence Section
Breach of temporary exemption from registration regulations by the person who was granted the temporary exemption. The conditions which must be complied with are contained in Article 5 of S.I. No. 60/93 (Temporary Exemption from Registration of Vehicles Regulations).	Section 139(1)(f) Finance Act 1992
Penalty	
€ 5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ A certificate of non-registration from the National VRT Service, Anne Street, Wexford Town,, Co. Wexford in respect of the vehicle on the date of the suspected offence to show that it is unregistered. ▪ Evidence that the vehicle was being used in breach of the temporary exemption provisions e.g. dates, times and locations observed on loan to a person ineligible for temporary exemption. ▪ Details and copies of any warnings/demands issued. 	

- If possible, an admission should be obtained after caution that the person concerned availed of temporary exemption and failed to comply with the associated regulations. If such a cautioned admission is obtained, seizure action should not be taken without further independent evidence to confirm the facts.
- If possible, a cautioned statement from any State resident who may have taken possession of the vehicle in question.
- An admission of culpability, preferably under caution, from the suspected offender.

Offence	Offence Section
<p>Possession of an unregistered vehicle (except where authorised under section 136 of Finance Act 1992 or where the vehicle is the subject of an exemption under section 135 of Finance Act 1992).</p> <p>Possession of an unregistered vehicle is contrary to section 131(4) of Finance Act 1992. The obligation to make an appointment for a pre-registration examination of the vehicle within 7 days after the manufacture or arrival in the State of the vehicle and for the registration of the vehicle to be completed within 30 days of its manufacture or arrival in the State is contained in Article 3(f) of S.I. 400/2010 (Vehicle Registration and Taxation (Amendment) Regulations).</p>	<p>Section 139(3)(a) Finance Act 1992</p>
Penalty	
<p>€5,000 on summary conviction (section 139(4) Finance Act 1992).</p>	
Forfeiture Provision	
<p>Forfeiture of vehicle (section 139(6) Finance Act 1992).</p>	
Normal supporting material	

- A certificate of non-registration from the National VRT Service, Anne Street, Wexford Town, Co. Wexford, to show that the vehicle was unregistered on the date of the alleged offence.
- Evidence that the defendant was in possession of the vehicle on the date of the alleged offence. This will normally include a statement from the detecting officer that the offender was detected driving or in possession of the vehicle on a specific date and time and at a particular place.
- Confirmation that the defendant is not an authorised person from the customer registration section of the Division concerned.
- Evidence of demands and any warnings i.e. copy of VRT Demand Notice (Form VRT 31).
- Proof that the vehicle was in the State longer than the time allowed for registration following its entry into the State (i.e. a period greater than that allowed by S.I. No. 318/1992 Art. 8(1), as substituted by S.I. 400/2010). This should consist of such evidence as:
 - Observations by officers, with dates, times and locations of sightings,
 - An admission, preferably under caution, from the suspected offender,
 - Proof of insurance cover over a period in the State in the name of the suspected offender,
 - Evidence that the offender is a State resident. This should consist of such evidence as:
 - Proof of dwelling in the State,
 - Proof of having personal ties in the State,
 - Employment in the State,
 - Registered on electoral list in the State,
 - In receipt of benefits in the State,
 - Paying taxes in the State,
 - Children in educational establishments in the State.

Offence	Offence Section
Possession of a vehicle in breach of Transfer of Residence (TOR) Regulations. The conditions which must be complied with are contained in Article 4(6) of S.I. 59/93 (Vehicle Registration Tax (Permanent Reliefs) Regulations).	Section 139 (3) (b) Finance Act 1992
Penalty	
€ 5,000 on summary conviction (section 139(4) Finance Act 1992).	
Forfeiture Provision	
Forfeiture of vehicle (section 139(6) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence to show that an exemption had been granted under Section 134 of Finance Act 1992. ▪ A copy of the Vehicle Registration Certificate showing details of the restriction on disposal. ▪ Evidence to establish the identity of the person in possession of the vehicle and to show that s/he was not the person to whom the exemption was granted. ▪ Evidence, with dates, times and locations of frequently observing the vehicle at a location/premises other than that of the applicant. ▪ Details, including dates, of warnings given. ▪ An admission, preferably under caution, by the person to whom relief from VRT has been granted that s/he had disposed of the vehicle to a State resident. ▪ An admission, preferably under caution, by the possessor of the vehicle that s/he was not the applicant and had acquired possession of the vehicle. ▪ Evidence that the vehicle was in the possession of a person, other than the applicant, on a regular basis. The dates and times concerned should be provided. 	

Offence	Offence Section
<p>Failure to pay VRT due on:</p> <ul style="list-style-type: none"> ▪ An unregistered vehicle, ▪ A converted vehicle, ▪ A vehicle which was granted exemption on transfer of residence (TOR) but where the limitations imposed were subsequently broken. <p>Payment of VRT due is required under section 132(2) of Finance Act 1992 and by section 132(6) of Finance Act 1992 for change of use (for example - transfer of residence (TOR), VRT repayments etc.).</p>	<p>Section 139(3)(d) Finance Act 1992</p>
Penalty	
<p>€5,000 on summary conviction (section 139(4) Finance Act 1992).</p>	
Forfeiture Provision	
<p>Forfeiture of vehicle (section 139(6) Finance Act 1992)</p>	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the vehicle has been registered in the State or that a declaration (e.g. form VRT 4) has been lodged for the purpose of registration. ▪ Evidence that the vehicle was granted relief from VRT to which it was not entitled or that a lower rate of VRT was charged than that which was liable if proper particulars had been disclosed. ▪ If possible, a statement accepting liability should be obtained after caution. ▪ A statement by a third party that s/he supplied false or incorrect documentation to the person concerned. ▪ Evidence that documentation is bogus. ▪ Evidence that the details of the vehicle which govern the amount of VRT payable had been altered in order to lessen the amount payable. 	

Offence	Offence Section
<p>Possession of a converted vehicle which has not been declared or declared but the additional VRT has not been paid, contrary to section 131(4) and 132(2) of Finance Act 1992.</p> <p>Under Article 3 of S.I. 400/2010 (Vehicle Registration and Taxation (Amendment) Regulations) a person has an obligation to make an appointment for a pre-registration examination of the vehicle within 7 days after the manufacture or arrival in the State of the vehicle and for the registration of the vehicle within 30 days of its manufacture or arrival in the State.</p>	<p>Section 139(1)(ee) Finance Act 1992</p>
<p>Penalty</p>	
<p>€5,000 on summary conviction (section 139(4) Finance Act 1992).</p>	
<p>Normal supporting material</p>	
<ul style="list-style-type: none"> ▪ Certificate of registration from the National VRT Service, Anne Street, Wexford Town, Co. Wexford, which includes a statement of the amount of VRT paid. ▪ Original application form i.e. VRTVPD2. ▪ Evidence that the vehicle has been converted, including details of the amount of VRT evaded. ▪ Evidence of possession of the vehicle by an unauthorised person. ▪ Evidence of any warnings issued. <p>Note: This offence applies to the person in possession of the vehicle irrespective of who was responsible for making the declaration or for delivering a vehicle. In other words, a person is guilty of an offence if in possession of a converted vehicle where particulars of the conversion have not been declared (by the end of the next working day) or, if declared, where the VRT due has not been paid.</p>	

Offence		Offence Section
Delivery to an unauthorised person of an unregistered vehicle or a converted vehicle on which the additional VRT has not been paid, contrary to section 139(3)(f) of Finance Act 1992.		Section 139(3)(f) Finance Act 1992
Penalty		
€5,000 on summary conviction (section 139(4), Finance Act 1992).		
Forfeiture Provision		
Forfeiture of vehicle (section 139(6) Finance Act 1992).		
Normal supporting material		
<ul style="list-style-type: none"> ▪ Certificate of registration from the National VRT Service, Anne Street, Wexford Town, Co. Wexford, which includes a statement of the amount of VRT paid. ▪ Original application form – VRTVPD2 ▪ Evidence that the vehicle has been converted, including details of the amount of VRT evaded. ▪ Evidence as to who did the conversion and who delivered the converted vehicle. ▪ Witness statement from the present owner. ▪ Evidence of any warnings issued. 		
Offence		Offence Section
To be knowingly concerned with the evasion of VRT.		Section 139(5) Finance Act 1992
Penalty		
€5,000 on summary conviction and/or up to 6 months imprisonment (section 139(5) of Finance Act 1992).		
€126,970 on indictment or 3 times the amount of VRT concerned, whichever is the greater, and/or up to 5 years imprisonment.		
Forfeiture Provision		

Forfeiture of vehicle (section 139(6) Finance Act 1992)

Normal supporting material

- Evidence that fraud has taken place.
- Evidence that the accused person(s) knowingly or recklessly took steps to evade VRT (a) for him/herself; (b) with another individual.
- A statement of admission, preferably under caution, by the person(s) concerned or in the case of any other person who might have been in collusion with him/her or on whose behalf s/he acted.
- Evidence to prove that the suspect had the intention to evade, or to assist in the evasion of, VRT and took steps for that purpose.

Note: This offence should not normally be pursued in individual cases of failure to pay VRT. It is intended for cases of protracted or concerted fraud, normally by dealers and where a number of vehicles are involved.

Offence

Offence Section

Offences related to obstruction and failure to comply with requests.

Section 1078 (2)(j)
Taxes Consolidation
Act 1997

This includes obstruction offences in connection with Revenue powers to stop vehicles, enter/search premises, seek information, seize and detain vehicles and failure to provide a name and/or address.

Penalty

Liable on summary conviction under section 1078 TCA 1997 to a fine of €5000 on and/or up to 12 months imprisonment.

Liable on indictment under section 1078 TCA 1997 to a fine of up to €126,970 and/or up to 5 years imprisonment.

Normal supporting material

- Clear evidence of obstruction, preferably by more than one officer.

- Positive identification of the individual who committed the obstruction.

5.3.7 VRT offences committed specifically by authorised persons

Offence	Offence Section
Use of an unregistered vehicle in a public place (section 136(8) Finance Act 1992). The conditions which must be complied with are contained in Article 9 of S.I. 437/92 (Vehicle Regulations and Taxation (No.2) Regulations).	Section 139(1)(bb) Finance Act 1992
Penalty	
€ 5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence (i.e. date, time and place of sightings) of the vehicle being used in breach of the conditions. ▪ Evidence of the identity of the person using the vehicle. ▪ Confirmation that the defendant is an authorised person from the customer registration section of the Region/District concerned. ▪ Evidence that the vehicle is unregistered (certificate of non- registration from the National VRT Service, Anne Street, Wexford Town, Co. Wexford). ▪ If possible, an admission of the offence under caution. ▪ Evidence of the vehicle being in use in the State for more than 3,000 km. ▪ The comments of the Control Officer should also be obtained in relation to the authorised person's record of compliance. <p>Note: An authorised dealer who allows a vehicle to be used outside the conditions may be the offender in these cases. An unauthorised person who uses an unregistered vehicle can be prosecuted for possession of an unregistered vehicle offence under section 139(3)(a) of Finance Act 1992 (See Section 4.3.4.1). It must be established that the alleged offender is not connected with the business of the authorised dealer (e.g. a staff member).</p>	
Offence	Offence Section
Failure by an authorised person to: <ul style="list-style-type: none"> • account for unregistered and converted vehicles, • lodge returns of all unregistered vehicles received, stored, converted and disposed of, • keep records. Section 137 Finance Act 1992 and S.I. 318/92.	Section 139(3)(e) Finance Act 1992
Penalty	
Normally, revocation of authorisation (following warning). Otherwise, €5,000 on summary	

conviction (section 139(4) Finance Act 1992.)

Forfeiture Provision

Forfeiture of Vehicle (section 139(6) Finance Act 1992)

Normal supporting material

- Evidence that the person is an authorised person.
- Evidence that the dealer was in possession of an unregistered vehicle or a converted vehicle which has not been recorded on the stock record. The evidence of two officers is advisable in relation to the stock record and a copy or print-out of it would be useful supporting material.
- Evidence that the receipt, disposal or conversion of the vehicle has not been recorded in the dealer's stock record.

Offence	Offence Section
<p>An authorised person who:</p> <ul style="list-style-type: none"> ▪ delivers an unregistered vehicle to (or makes one available for use by) an unauthorised person, or ▪ delivers a converted vehicle which has not been declared and where the additional VRT due on conversion has not been paid. <p>See also section 136(4) of Finance Act 1992.</p>	<p>Section 139(3)(f) Finance Act 1992</p>
Penalty	
<p>€5,000 on summary conviction (section 139(4) Finance Act 1992).</p>	
Forfeiture Provision	
<p>Forfeiture of vehicle (section 139(6) Finance Act 1992).</p>	
Normal supporting material	
<p><i>Unregistered vehicle</i></p> <ul style="list-style-type: none"> ▪ Interview both the person who authorised the delivery and the authorisation holder, take relevant documents (e.g. invoices, Bill of Sale) and obtain a statement, preferably under caution, once an offence has been established. 	

- Evidence to show that the vehicle was delivered to an unauthorised person and the date of delivery. A witness statement should be taken from the person who took delivery of the vehicle. However, if separate offences have been committed by the person who received the vehicle, a statement under caution is appropriate.
- Certificate of non-registration from the National VRT Service, Anne Street, Wexford Town, Co. Wexford.

Converted vehicle

- Interview the converter of the vehicle, obtain evidence of delivery, obtain relevant documents (e.g. invoices) and obtain a statement, preferably under caution.
- Interview the owner of the vehicle and obtain a statement under caution (if an offence other than the delivery offence has been committed by the owner).
- A certificate from the National VRT Service, Anne Street, Wexford Town, Co. Wexford, stating the amount of VRT which had been originally paid on the vehicle and the category originally recorded.
- Original application form – VRTVPD1.

Note: The offence of delivery to an unauthorised person of an unregistered vehicle or a converted vehicle on which the additional VRT has not been paid under section 139(3)(f) Finance Act 1992 at Section 4.3.4.1. covers the situation where an unauthorised person delivers a converted vehicle.

5.3.8 VRT offences associated with certificates, declarations, etc.

Offence	Offence Section
Interference with certificate	Section 139(1)(d) Finance Act 1992
Penalty	
€5,000 on summary conviction (section 139(2) Finance Act 1992).	
Normal supporting material	

- Evidence that the certificate was altered in any way. The National VRT Service, Anne Street, Wexford Town, Co. Wexford, is in a position to verify the details on the certificate prior to any unauthorised alterations.
- Evidence as to who was responsible for the alteration etc., if possible by means of a cautioned admission from the person concerned or some other person with direct knowledge of the alteration.

Notes

- This offence covers any type of unauthorised alteration to a vehicle registration certificate.
- The offender is the person who altered the certificate and may not necessarily be the person in possession of the certificate.
- If the alteration is done with a view to evading VRT, there may also be an offence under Section 139(3)(d) of Finance Act 1992.

Offence	Offence Section
Failure by distributor/manufacturer to declare the Open Market Selling Price (OMSP) as required by section 133(2) Finance Act 1992.	Section 139(1)(e) Finance Act 1992

Penalty

€ 5,000 on summary conviction (section 139(2) Finance Act 1992).

Normal supporting material

- Evidence that the Open Market Selling Price (OMSP) was not declared.
- Evidence as to the distributor/manufacturer responsible for the breach.
- If possible, an admission of liability after caution.

Offence	Offence Section
<p>Offences which are not specifically covered in section 139(1)(a) to (e) of Finance Act 1992.</p> <p>Note: this is a 'catch-all' provision which covers any breaches of the law or regulations which are not specifically covered in section 139(1)(a) to (e) of Finance Act 1992. This provision can also be used in conjunction with specific charges under section 139(3) of Finance Act 1992.</p>	<p>Section 139(1)(f) Finance Act 1992</p>
Penalty	
<p>€5,000 on summary conviction (section 139(2) Finance Act 1992).</p>	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that a Regulation has been breached in respect of a vehicle in the State. ▪ Evidence as to the person responsible for the breach. ▪ If possible, an admission of liability after caution. 	
Offence	Offence Section
<p>To issue or be in possession of a document purporting to be a certificate.</p> <p>Note: This arises where a person possesses a false vehicle registration certificate.</p>	<p>Section 139(3)(c) Finance Act 1992</p>
Penalty	
<p>€5,000 on summary conviction (section 139(4) Finance Act 1992).</p>	
Forfeiture Provision	
<p>Forfeiture of vehicle (section 139(6) Finance Act 1992).</p>	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the document resembles a vehicle registration certificate and that it is false (e.g. from the Driver and Vehicle Services Division of the Department of 	

Transport).

- An admission, preferably under caution, that the document is a forgery.
- Evidence, if available, that a particular person was in possession of the vehicle that the document purports to be for.

5.3.9 VRT offences involving fraudulent repayment claims

Offence	Offence Section
Fraudulent VRT Repayment Claims Note: In any instance where a fraudulent repayment claim is detected, the question of proceedings being taken under section 1078 Taxes Consolidation Act 1997 should be considered.	S.1078(2) Taxes Consolidation Act 1997
Penalty	
<p>€5,000 on summary conviction which may be mitigated to not less than ¼ part of such fine and/or up to 12 months imprisonment (section 1078(3)(a) Taxes Consolidation Act 1997).</p> <p>€126,970 on indictment and/or up to 5 years imprisonment (section 1078(3)(b) Taxes Consolidation Act 1997).</p>	
Normal supporting material	
<p>Proofs will vary from case to case, however the following are some typical requirements:</p> <ul style="list-style-type: none"> ▪ Full details of the TAN/Authorisations held. ▪ Original records/documents relating to the claims should be uplifted from the trader under section 136 of Finance Act 2001. The originals should be retained as exhibits and copies placed on file. ▪ Any available evidence that the claim is fraudulent should be submitted. This may take the form of statements under caution or witness statements, as appropriate. ▪ If possible, an admission of the offence should be obtained after caution. 	

5.4 Excise Licence Offences

Under excise legislation, persons are required to hold an excise licence to conduct certain activities. Trading without such a licence is an offence. Bookmakers are subject to the additional requirement to register their premises. Certain other premises also require authorisation e.g. premises where gaming machines are operating require a gaming licence and any premises where amusement machines are operated require an amusement machine permit.

Details regarding the various excise licence offences are set out in the tables below.

Offence	Offence Section
<p>Intoxicating Liquor</p> <p>It is an offence to make, manufacture, deal, wholesale or sell by retail any intoxicating liquor without the appropriate licence.</p>	<p>Section 50 Finance (1909-1910) Act 1910</p>
<p>Penalty</p>	
<p>€1,265 on summary conviction (section 155(4) Finance Act 1992).</p>	
<p>Forfeiture Provision</p>	
<p>Section 125A of Finance Act 2001 provides for the forfeiture of alcohol products on unlicensed premises. (Note: this provision is inextricably linked with engagement with Revenue on tax clearance issues and not trading without a licence.)</p>	
<p>Normal supporting material</p>	
<p>Evidence to prove unlicensed trading involves:</p> <ul style="list-style-type: none"> ▪ Purchase of alcohol: evidence that alcohol was ordered (spirits in preference to beer or lager), was observed being poured and was paid for, the price being commensurate with what one would expect to pay for such a drink. ▪ Evidence that the beverage looked and smelt like alcohol, that it was tasted and on doing so the officer was satisfied that the drink ordered contained alcohol. Note: officers should not take away or retain samples of the alcohol purchased as there is no legal provision for producing scientific analysis as evidence in court to prove that a substance is alcohol. ▪ Where bottles of alcohol are purchased (e.g. shop, supermarket, etc.) they should be retained and treated as an exhibit for possible presentation in court. Any receipts obtained should also be retained as an exhibit. ▪ If the alcohol purchased is Irish coffee, it may be more difficult to secure a conviction but the case would be greatly strengthened if the officer can give evidence that s/he actually saw spirits being poured into the glass. 	

Identification of the person responsible for running the business involves interviewing the person who appears to be responsible in the premises and asking if s/he is responsible for running the premises. If that person indicates that somebody else is responsible for running the premises, then the other person should be cautioned and interviewed and asked:

- If s/he is responsible for the running of the premises,
- If the person who sold the alcohol was acting on his/her behalf, and
- To explain the unlicensed trading.

Any documentation e.g. receipts should be shown to him/her and confirmation obtained that it relates to his/her premises.

Note:

Evidence of persons on the premises, display of stock, signs, etc. are not sufficient on their own to prove unlicensed trading. However, they provide useful additional evidence and should be noted by officers.

All statements by the accused should be made under caution, if at all possible.

Manufacturing and wholesale dealing offences are rare, and where they arise, officers should obtain advice on the procedures to be followed and the proof required.

Offence	Offence Section
<p>Mineral Oil Traders</p> <ul style="list-style-type: none"> ▪ To produce, sell or deal in, keep for sale or delivery, or deliver any mineral oil (other than additives) for use as a propellant, or any aviation gasoline, where that person is not the holder of an auto-fuel trader's licence. ▪ To produce, sell or deal in, keep for sale or delivery, or deliver any gas oil or kerosene that is liable to a rate lower than the appropriate standard rate where that person is not the holder of a marked fuel trader's licence. ▪ To fail to display the licence at the premises or place to which that licence relates. ▪ To contravene, or fail to comply with, a temporary prohibition of trade order. 	<p>Section 102(1) Finance Act 1999</p>

Penalty

€5,000 on summary conviction and/or a term of imprisonment not exceeding 12 months (section 102(4) Finance Act 1999).

Forfeiture Provision

Forfeiture of mineral oil and any substance mixed with that oil (section 102(5) Finance Act 1999).

Normal supporting material

Evidence to prove unlicensed trading involves:

- Purchase of oil: evidence that a particular type of mineral oil was purchased and that it was paid for, the price being commensurate with what one would expect to pay for such oil.
- Evidence that the mineral oil was pumped into the tank of the officer's car. It is an essential element of the offence that the oil has been sold for combustion in the engine of a motor vehicle.
- If possible, obtain a receipt on headed paper for the purchase. If obtained, the original should be retained as an exhibit for possible presentation in court.
- Evidence that the oil was pumped from a tank bearing a particular name of mineral oil.
- Identification of the person responsible for running the business involves:
 - Interview the person who pumped the oil and ask who is responsible for the running of the premises.
 - If s/he indicates that somebody else is responsible for the running of the premises, then the other person should be interviewed under caution and asked:
 - Is s/he is responsible for the running of the premises,
 - If the person who pumped the oil was acting on his/her behalf, and
 - To explain the unlicensed trading.
- Any documentation e.g. receipts should be shown to him/her and confirmation obtained that it relates to his/her premises.

Offence**Offence Section**

<p>Gaming Machines</p> <p>It is illegal to have gaming machines available for play in any public place unless there is both:</p> <ul style="list-style-type: none"> ▪ A Gaming Licence for the place in question, and ▪ A current Gaming Machine Licence is displayed on each machine. <p>Note: Enforcement action for failing to hold a Gaming Licence for a premises is a matter for An Garda Síochána.</p>	<p>Section 43(5)(a) Finance Act 1975</p>
<p>Penalty</p>	
<p>€1,265 on summary conviction for each unlicensed machine (section 71 of Finance Act 1993).</p>	
<p>Normal supporting material</p>	
<p>Evidence to prove unlicensed trading involves:</p> <ul style="list-style-type: none"> ▪ Evidence that the machines were available for play in a public place. All machines on the premises can be regarded as available for play unless some/any of them have been certified by Revenue as being unavailable for play (this should be established in advance of the enforcement visit to the premises). ▪ To obtain evidence and to prove that the machines were used for gaming purposes, the officer must play the machines and, if successful, attempt to gain a payout. A detailed account is required of how the machines were played and how the gain or credit was accumulated. ▪ The officer should examine the machines and be satisfied that no current licence is displayed on them. ▪ The make and serial number of each machine and description of the game should be noted as well as whether the machines were in play, unplugged, etc. ▪ It should be established if licences were actually obtained in respect of the machines but not displayed. <p>Identifying the person responsible for making the machines available for play involves:</p> <ul style="list-style-type: none"> ▪ Interviewing the person who appears to be responsible in the premises and ask if s/he is responsible for the running of the premises and for making the machines available for play. ▪ If that person indicates that somebody else is responsible for running the premises, then the other person should be cautioned and interviewed and asked: <ul style="list-style-type: none"> ▪ If s/he is responsible for making the machines available for play, ▪ If the person who was interviewed at the premises was acting on his/her 	

behalf, and

- To explain the unlicensed trading.

Offence	Offence Section
<p>Amusement Machines</p> <p>It is illegal to have amusement machines available for play in any public place unless there is both:</p> <ul style="list-style-type: none"> ▪ An amusement machine permit for the place in question, ▪ A current amusement machine licence is displayed on each machine. 	<p>Section 126(1) and (2) Finance Act 1992</p>
<p>Penalty</p>	
<p>€125 on summary conviction for no permit (section 126 (1) Finance Act 1992). €1,265 on summary conviction for each unlicensed machine (section 126 (2) Finance Act 1992).</p>	
<p>Forfeiture Provision</p>	
<p>Any amusement machine which is available for play without a current licence displayed on it may be liable to forfeiture (exclusive of its contents) and may be seized under section 141 of Finance Act 2001.</p>	
<p>Normal supporting material</p>	
<p>In the case of unlicensed machines:</p> <ul style="list-style-type: none"> ▪ Evidence that the machines were available for play in a public place. All machines on the premises can be regarded as available for play unless some/any of them have been certified by Revenue as being unavailable for play (this should be established in advance of visiting the premises). ▪ Evidence that the machine(s) is/are used for amusement and not gaming purposes, if necessary, by playing the machine(s) to prove that the machine may be played without paying or a non-monetary prize of no more than €7 in value may be won by a successful player. ▪ The officer should examine the machine(s) and be satisfied that no current licence is displayed on them. A check should also be made to see if the name of the game on the VDU matches the name on the cabinet containing the game (this will prevent any subsequent doubts or difficulties regarding the identification of the game). ▪ The make and serial number of each machine and description of the game should be noted as well as whether the machines were in play, unplugged, etc. ▪ It should be established if licences were obtained in respect of the machines but not displayed. <p>In the case of failure to hold a permit:</p> <ul style="list-style-type: none"> ▪ Evidence that the officer sought production of the permit, ▪ If the operator is unable to produce a permit, s/he should be cautioned and asked for an 	

explanation for the unlicensed trading.

Identification of the person responsible for making the machines available for play:

Under the legislation, it is an “operator” who is guilty of offences relating to amusement machines. An operator is defined as the owner, hirer or lessee of the machines or any person involved in the control of the machines. The following points should be borne in mind when compiling a prosecution case:

- Caution and interview the person who appears to be the operator and ask if s/he is responsible for the running of the premises and for making the machines available for play.
- The particular reason why that person can be regarded as an “operator” should also be established from him/her.
- Obtain the operator’s explanation for the unlicensed trading.

If any other persons are mentioned who could be regarded as operators, they should also be cautioned and interviewed along the same lines.

Offence	Offence Section
<p>Bookmakers</p> <ul style="list-style-type: none"> ▪ A person may not carry on business or act as a bookmaker other than by remote means unless s/he is a licensed bookmaker. ▪ A person may not carry on business or act as a remote bookmaker from a place in the State unless s/he is a licensed bookmaker. ▪ A person may not carry on business or act as a remote betting intermediary from a place in the State unless s/he is a licensed remote betting intermediary. ▪ A person may not carry on business or act as a remote bookmaker from a place outside the State and shall not communicate or attempt to communicate with a person in the State by remote means for the purpose of making a bet with a bookmaker unless s/he is a licensed remote bookmaker. ▪ A person may not carry on business or act as a remote betting intermediary from a place outside the State and shall not communicate or attempt to communicate with a person in the State by remote means for the purpose of the making a bet with any person other than a bookmaker unless s/he is a 	<p>Section 2 Betting Act 1931</p>

licensed remote betting intermediary.

Penalty

A person is liable on a summary conviction, to a fine not exceeding €5,000.

A person is liable on conviction on indictment for a first offence to a fine not exceeding €150,000 and/or imprisonment for a term not exceeding 5 years.

A person is liable on conviction on indictment for second and subsequent offences to a fine not exceeding €300,000 and/or imprisonment for a term not exceeding 5 years.

Normal supporting material

Documentary evidence of bets:

Duplicate betting docketts should be retained and treated as exhibits for possible presentation in court. In addition, the original docketts, daily betting register, notebooks, records etc. found on the premises should be uplifted from the bookmaking office and retained as exhibits.

Where bets are placed verbally, oral evidence that they were placed.

Persons who accept the bets in an unlicensed/unregistered premises can be charged with illegal trading even if that person is not responsible for running the business. In such cases, the person who accepted the bets should be cautioned and interviewed to establish who is responsible for the running of the premises. If s/he indicates that it was somebody else, that person should be cautioned, interviewed and asked –

- If s/he is responsible for the running of the premises,
- If the person who accepted the bets was acting on his/her behalf, and
- To explain the unlicensed trading.

Any documentation should be shown to him/her and confirmation obtained that it relates to his/her premises.

5.5 Betting Duty Offences

The offences which arise in relation to the evasion or non-payment of betting duty by bookmakers are set out below.

Offence	Offence Section
Failure to pay any sum payable in respect of betting duty within a prescribed period.	Section 67(4) Finance Act 2002
Penalty	
€5,000 on summary conviction (section 67(4) Finance Act 2002).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that the records were inspected and the bet placed by the officer (or some specific detail relating to it) has not been entered. ▪ The records should be retained as an exhibit for possible presentation in court. ▪ Evidence as to when the payment was received. Betting duty returns should be stamped, dated and initialled immediately on receipt so that this evidence can be given. 	
Offence	Offence Section
It is illegal for any person employed by or acting for a bookmaker in a registered premises to knowingly: <ul style="list-style-type: none"> ▪ make a false entry on any slip or other record by means of which a bet is made, ▪ substitute a document that is false for any slip or other document by means of which a bet is made, ▪ enter false particulars of any bet in any book or record, ▪ be concerned or involved in the fraudulent evasion or attempted evasion of betting duty. 	Section 78(7) Finance Act 2002
Penalty	
€5,000 on summary conviction (section 78(7) Finance Act 2002).	
Normal supporting material	
<ul style="list-style-type: none"> ▪ Evidence that a bet was placed with the accused person. 	

<ul style="list-style-type: none"> ▪ Evidence that the accused person was knowingly involved in evasion. ▪ A cautioned statement of admission from the person or from any other person who might have been in collusion with him/her. ▪ An interview, following caution, with the person covering whether s/he was aware that the activities in which s/he was involved were fraudulent. 	
Offence	Offence Section
Failure to comply with Betting Regulations (Betting Duty and Betting Intermediary Duty Regulations 2015)	Section 77(2) Finance Act 2002
Penalty	
€5,000 on summary conviction (section 77(2) Finance Act 2002).	
Normal supporting material	
The evidence required is dependent on the offence.	

5.6 Tobacco Tax Stamps Offences

Cigarettes and roll your own tobacco products which are liable to excise duty in the State are required to have a duty paid tax stamp affixed to the pack by the manufacturer (except tobacco products held under an approved duty suspension arrangement e.g. transit, in warehouse or released for consumption in another Member State). The law governing tax stamp offences is contained in section 78 of Finance Act 2005.

Offences involving tobacco tax stamps are offences under the law relating to excise. Accordingly, any illicit tobacco products and any goods packed with or used to conceal them, and any vehicle or conveyance used to transport them, may be seized under section 141 of Finance Act 2001.

The offences which arise in relation to tobacco tax stamps, counterfeiting and manufacturing, and the penalties which apply, are detailed below.

Note: Section 78(6)(d) of Finance Act 2005 removes any need for scientific analysis of a product to prove that it is a tobacco product and that consequently an offence was committed. The stated opinion of an officer that an item is a cigarette or a tobacco product is sufficient to sustain a prosecution. In any proceedings referred to in section 126(1) of Finance Act 2001 involving tobacco products, it is presumed until the contrary is shown that a thing is a cigarette or other tobacco product where, in

the opinion of an officer, it is contained in any form of packaging which, by virtue of any wording on it, its shape and other characteristics, is indicative of cigarettes or other tobacco products and the officer believes that to be the case.

Offence		Offence Section
Displaying tobacco products that do not have the appropriate tax stamp affixed having paid the appropriate rate of tax.		Section 78(3) Finance Act 2005
Offering for sale tobacco products that do not have the appropriate tax stamp affixed having paid the appropriate rate of tax.		Section 78(3) Finance Act 2005
Keeping for sale or delivery tobacco products that do not have the appropriate tax stamp affixed having paid the appropriate rate of tax.		Section 78(3) Finance Act 2005
Being in the process of delivering tobacco products that do not have the appropriate tax stamp affixed having paid the appropriate rate of tax.		Section 78(3) Finance Act 2005
Penalty		
A person is liable on summary conviction to a fine of €5,000 and/or up to 12 months imprisonment (Section 78(5)(a) Finance Act 2005).		
A person is liable on conviction on indictment to a fine not exceeding €126,970 and/or up to 5 years imprisonment (Section 78(5)(b) Finance Act 2005).		
Forfeiture Provision		
Forfeiture of the tobacco products in question as well as any goods packed with or used to conceal them, and any vehicle or conveyance used to transport them (Section 78(7) Finance Act 2005).		
Normal Supporting Material		
It must be shown that the tobacco packs in question did not have tax stamps affixed or that the tax stamps affixed were not appropriate to the rate of duty payable on the products. The officer should examine the tobacco packs to establish these facts. The officer should also open some packs to satisfy himself/herself that they contain tobacco products and be in a position to confirm this, if required, in court.		
In order to prove an offence of “offering for sale”, the officer must produce evidence that the person was observed selling the tobacco products or that the officer was offered such products by the alleged offender. The officer need not purchase the tobacco products to		

obtain evidence, although a purchase by an officer from the person involved is considered to be strong evidence. A test purchase must be as result of an offer of sale to avoid the defence claiming entrapment, should the case proceed to prosecution.

Keeping for sale i.e. storage refers to large quantities of tobacco products rather than merely an individual's duty-free allowance. Evidence relating to ownership of the premises, control or responsibility for the goods or a record of observation in relation to sale and storage of the product by an individual or individuals must be provided.

Proving a delivery offence may be a more difficult fact to prove as this act is unlikely to be overt. It is normally accomplished through meetings between the offender and other persons, in private or by telephone. A witness statement corroborated by other statements or a cautioned statement by the offender would be best evidence in the absence of direct evidence by the detecting officer that an offer was made to him/her.

In the case of delivery, the officer must show that the consignment was not covered by an Accompanying Administrative Document (A.A.D.) or a T1 declaration.

Evidence that the tobacco products were not moving under the duty suspension system should be provided.

5.6.1 Counterfeiting or altering tobacco stamps offences

Offence	Offence Section
Counterfeiting, altering or making fraudulent use of counterfeited/altered tax stamps.	Section 78(4) Finance Act 2005
To be knowingly concerned in the holding, selling or dealing in counterfeited/altered tax stamps.	Section 78(4) Finance Act 2005
Penalty	
<p>On summary conviction, a person is liable to a fine of €5,000 and/or up to 12 months imprisonment (Section 78(5)(a) Finance Act 2005 as amended).</p> <p>On conviction on indictment, a person is liable to a fine not exceeding €126,970 and/or up to 5 years imprisonment (Section 78(5)(b) Finance Act 2005).</p>	
Forfeiture Provision	
Forfeiture of the tobacco stamps in question (Section 78(7) Finance Act 2005).	
Normal Supporting Material	
<p>Counterfeiting or altering of tax stamps:</p> <p>Evidence that the individual was observed while in the process of altering tax stamps or making counterfeit tax stamps. This would require observation of the complete counterfeiting process.</p> <p>Such observations/evidence should be supported by expert witness statements. These statements should refer to the differences in the tax stamps complained of in comparison with a genuine tax stamp produced for or on behalf of Revenue. The expert should be from the printing organisation which produced the tax stamps released by Revenue and must show that s/he was familiar with the printing, make up and distribution of the tax stamps from their organisation.</p> <p>Evidence that the bogus tax stamps had not been issued by Revenue could be provided by way of witness statement from a person within Large Corporates Division, responsible for the control and distribution of the stamps.</p> <p>While a cautioned statement by the alleged offender may not be necessary, it should be taken if tendered.</p> <p>Fraudulent use of counterfeit or altered tax stamps:</p>	

The officer must prove that the person was acting fraudulently i.e. wilfully and with knowledge that the use of the tax stamps would act to deceive and to ultimately result in the evasion of duty on the tobacco products. The element of *mens rea* (intention or knowledge of wrongdoing) must be proven.

A cautioned statement by the alleged offender should be taken if tendered.

Holding, selling or dealing in counterfeit or altered tax stamps:

Mens rea on the part of the offender is required (knowingly concerned in the holding, selling or dealing in counterfeited/altered tax stamps) and, therefore, the offence may prove difficult to establish. Possession, sale and passing on of the counterfeit or altered tax stamps is sufficient evidence to sustain an offence.

A cautioned statement by the alleged offender should be taken if tendered. Witness statements that corroborate the offender's involvement with the holding, selling or dealing in the stamps should be taken where possible.

In all cases, the counterfeit or altered tax stamp itself is a necessary exhibit and should be retained as evidence for presentation in court.

5.6.2 Illicit Manufacture of Tobacco Offences

Offence	Offence Section
To produce or process any illicit tobacco products. To attempt to produce or process any illicit tobacco products or to be concerned with any such production, processing, attempted production or attempted processing of illicit tobacco products.	Section 78A(1) Finance Act 2005
To knowingly deal in any illicit tobacco product.	Section 78A(1) Finance Act 2005
To keep prohibited goods on any premises or other land or on any vehicle.	Section 78A(1) Finance Act 2005
To deliver, or to be in the process of delivering, any illicit tobacco product or prohibited goods.	Section 78A(1) Finance Act 2005
Penalty	
On summary conviction, a person is liable to a fine of €5,000 and/or up to 12 months	

imprisonment (Section 78(5)(a) Finance Act 2005).

On conviction on indictment a person is liable to a fine not exceeding €126,970 and/or up to 5 years imprisonment (Section 78(5)(b) Finance Act 2005).

Forfeiture Provision

Forfeiture of the tobacco products in question and any vehicle that the illicit products, materials or goods are found in (Section 78A(3) Finance Act 2005).

Normal Supporting Material

Producing or processing illicit tobacco products:

- If available, evidence that the alleged offender was observed while producing or processing illicit tobacco products.
- Evidence of machinery or other items used in the illicit manufacture of tobacco products. A witness statement from legitimate tobacco manufacturers confirming that the illicit product is not genuine.

Dealing in any illicit tobacco product:

- Mens rea on the part of the offender is required (knowingly dealing in any illicit tobacco product) and, therefore, the offence may prove difficult to establish.
- A cautioned statement by the alleged offender should be taken if tendered.
- Witness statements that corroborate the alleged offender's dealing in the product concerned should be taken where possible.

To keep prohibited goods on any premises or other land or on any vehicle:

- A witness statement from the officer concerned outlining the circumstances under which the illicit product was discovered.
- A cautioned statement by the alleged offender should be taken if tendered.

To deliver, or to be in the process of delivering, any illicit tobacco product:

- A witness statement from the officer concerned outlining the circumstances under which the illicit product was discovered.
- A cautioned statement by the alleged offender should be taken if tendered.

General:

In all cases, the counterfeit or illicitly produced product is a necessary exhibit and should be retained as evidence for presentation in court.

CHAPTER 6

Management of Detained and Seized Goods

6 CHAPTER 6 Management of Seized Goods

This section sets out the procedures for the management, safe custody and disposal of goods that are seized by Revenue under powers that are conferred by excise law and the Customs Act 2015.

Revenue is responsible for the management of the State Warehouse. Collections and most disposals of seized goods are carried out by a third-party operator contracted under tender. These services are currently outsourced to Thornton's Recycling Ltd.

The State Warehouse Liaison Unit in Information and Communications Technology and Logistics Division (ICTLD) acts as an interface between the operator and Revenue enforcement staff. The unit's main functions are to organise collections, oversee the storage and supervise the disposal of seized goods.

The National Prosecutions and Seizures Office (NPSO), Business Division, adjudicates on all seizures nationwide and is responsible for ensuring that legal proceedings, where they arise, are promptly initiated. They are also responsible for issuing disposal instructions for seized goods including conveyances, preparing cases for condemnation proceedings and returning goods where a Notice of Claim is successful.

6.1 Detention/Seizure

If an officer is satisfied that certain goods or conveyances are liable to forfeiture under the Customs Act and/or excise laws, s/he can proceed directly to seize the goods or conveyances.

In some circumstances, goods or conveyances may be detained for further examination, investigation and testing to determine whether there is sufficient evidence that an offence has been committed against the goods, or duty is payable. Where a detention occurs, a decision as to whether to seize or release the goods/conveyance must be made within 30 days.

Most seizures relate to tobacco, alcohol, mineral oil and VRT offences. See [Chapter 5](#) for Customs and Excise offences and forfeiture provisions.

6.2 Legislation

The primary law empowering officers to seize or detain goods or vehicles is contained in:

Finance Act 2001

- Section 140 Finance Act 2001 Detention of goods and vehicles
- Section 141 Finance Act 2001 Seizure of goods and vehicles.

Customs Act 2015

- Section 33 Customs Act 2015 Detention
- Section 34 Customs Act 2015 Seizure.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

Appendices

Appendix 1: Caution Wording Translations

Language	Wording
Irish	Ní gá duit aon ní a rá mura mian leat é, ach rud ar bith a deireann tú tógfar síos i scríbhinn é agus is féidir é a úsáid i bhfianaise.
English	You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.
Dutch	U bent niet verplicht iets te zeggen als u dat niet wilt, maar alles wat u zegt wordt opgeschreven en kan als bewijs tegen u gebruikt worden.
Spanish	No tiene usted la obligación de decir nada, a menos que lo desee, pero tenga en cuenta que todo lo que diga será registrado por escrito y puede ser utilizado como evidencia.
Italian	Lei ha il diritto di non dire nulla, a meno che non ritenga opportuno parlare, ma in tal caso verrà preso nota scritta id tutto quello che dice e ciò potrà essere usato come prova nel processo.
French	Vous n'êtes pas oblige(e) de faire une déclaration sauf si vous le désirez, mais toute déclaration éventuelle sera enregistrée par écrit et pourra être utilisée comme pièce à conviction.
German	Sie sind nicht verpflichtet, eine Aussage zu machen, wenn Sie dies nicht wünschen, doch alles was Sie sagen, wird schriftlich ausgesetzt und kann in der Beweisführung verwendet werden.
Latvian	Jums ir tiesības klusēt, ja vien jūs nevēlaties runāt, bet viss ko jūs teiksiet tiks pierakstīts un var tikt izmantots kā liecība prēt jums.
Russian	вы не обязаны что-либо говорить. Вы можете говорить, только если желаете этого, однако все, что вы скажете, будет записано и может быть представлено в качестве показания.
Lithuanian	Jūs neprivalote nieko sakyti nebent to noretumėtė patys, bet viskas ką sakote bus užrašyta ir gali būti pateikta kaip įrodymas
Bulgarian	не сте задължен да казвате каквото и да е, освен ако пожелаете, но всичко което кажете ще бъде записано и може да бъде използвано като доказателство.

Romanian	Nu sunteți obligat(ă) să spuneți nimic, decât dacă doriți să o faceți, dar orice veți spune se va nota și poate fi folosit într-o ulterioară mărturie.
Polish	Nie jest Pan/Pani zobowiązany/a do składania zeznań, ale jeżeli złożą Pan/Pani zeznania dobrowolnie wszystko zostanie zapisane i może być użyte przeciwko Panu/Pani.

Appendix 2: Specimen Charges

A. Specimen charges for Excise offences under Section 119 Finance Act 2001 (as amended)

*Dublin Metropolitan District / District Court Area of _____

District No. _____

Accused Name:

Address:

Charge 1 (Evasion of Excise Duty on excisable products imported from another member state or from a third country)

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, were concerned in the evasion of a duty of Excise on excisable products to wit, _____ cigarettes with intent to defraud the State, either directly or indirectly, of such duty contrary to Section 119 of the Finance Act 2001, as amended. The estimated value of the goods concerned is €_____.

Charge 2 (Attempted evasion of Excise Duty on excisable products imported from another member state or from a third country)

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, were concerned in the attempted evasion of a duty of Excise on excisable products to wit, _____ cigarettes with intent to defraud the State, either directly or indirectly, of such duty contrary to Section 119 of the Finance Act 2001, as amended. The estimated value of the goods concerned is €_____.

Charge 3 (Dealing with excisable products imported from another member state or from a third country without payment of excise duty)

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, did deal with excisable products to wit, _____ cigarettes with intent to defraud the State, either directly or indirectly, of such duty contrary to Section 119 of the Finance Act 2001, as amended. The estimated value of the goods concerned is €_____.

*delete inapplicable part

B. Specimen charge for Evasion of Common Customs Tariff Duty

***Dublin Metropolitan District / District Court Area of _____**

District No. _____

Accused Name:

Address:

Charge: (Attempted evasion of Common Customs Tariff Duty)

Offence alleged: That you, on _____ at _____ ,
within the *Dublin Metropolitan District/District Court Area aforesaid, did evade
customs duties (Common Customs Tariff) chargeable on the importation of goods,
to wit, _____ with
intent to defraud the State, either directly or indirectly, of such duties contrary to
Section 14(1)(a) of the Customs Act 2015.

The estimated value of the goods concerned in this charge is €_____.

***delete inapplicable part**

Note: The above specimen charge for Evasion of Common Customs Tariff Duty relates to an indictable charge only.

C. Specimen charges for VAT offences*** Dublin Metropolitan District / District Court Area of _____****District No. _____****Accused Name:****Address:****Charge 1 (Dealing in goods on which VAT was evaded)**

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, did deal with goods, on which Value-Added Tax was for the time being payable on importation, to wit, _____ with intent to defraud the State, either directly or indirectly, of such Value-Added Tax contrary to section 14(1)(b) of the Customs Act 2015, as applied by Section 53(3) of the Value-Added Tax Consolidation Act 2010. The estimated value of the goods concerned is €_____.

Charge 2 (Evasion of VAT)

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, did evade Value-Added Tax, chargeable on importation on certain goods, to wit, _____, with intent to defraud the State, either directly or indirectly, of such Value-Added Tax contrary to section 14(1)(a) of the Customs Act 2015, as applied by section 53(3) of the Value-Added Tax Consolidation Act 2010. The estimated value of the goods concerned is €_____.

Charge 3 (Attempted Evasion of VAT)

Offence alleged: That you, on _____ at _____, within the *Dublin Metropolitan District/District Court Area aforesaid, did attempt to evade Value-Added Tax, chargeable on importation on certain goods, to wit, _____, with intent to defraud the State, either directly or

indirectly, of such Value-Added Tax contrary to section 14(1)(a) of the Customs Act 2015, as applied by section 53(3) of the Value-Added Tax Consolidation Act 2010.

The estimated value of the goods concerned is €_____.

***delete inapplicable part**

Appendix 3: Applications for Search Warrants

The following section contains specimens of Information and Search Warrants under section 136(5) of Finance Act 2001 and section 29 of Customs Act 2015.

Section 136(5) of the Finance Act 2001

A search warrant under section 136 of Finance Act 2001 should be used to search in any case where the officer has reason to believe that there are excisable products at a premises, regardless of the origin of the goods. Section 136 of Finance Act 2001 can be used if an officer is unsure whether the products being searched for are prohibited or subject to excise law.

Section 29 of Customs Act 2015

The search warrant power under section 29 of Customs Act 2015 should be used to search for any thing that is liable to forfeiture under the Customs Acts or any records relating to transactions that are in contravention of the Customs Acts.

In the normal course, an application for a search warrant is made to a judge of the District Court sitting at a court in the District Court area in which the premises or place concerned is located. It may, however, be necessary on occasion to make an application to a District Court judge sitting at a Court outside of that District Court area. Where it appears that such a course of action may be necessary, the officer concerned should first ascertain, from the Courts Service, that the judge to whom it is proposed to make the application is assigned to the District Court area where the premises or place proposed to be searched is located. Confirmation that this enquiry has been made, and of the response received, should be recorded in the officer's notebook.

In the case of any such application:

- The name and number of the District Court where the Court sitting will take place should be entered on the Information.
- The name and number of the District Court area where the premises or place proposed to be searched is located should be entered on the search warrant.

AN CHÚIRT DÚICHE



THE DISTRICT COURT

INFORMATION

SECTION 136(5) OF THE FINANCE ACT 2001

*Dublin Metropolitan District/District Court Area of _____ District No. ____

The information of _____ attached to
 _____ who says on oath:

I am an Officer of the Revenue Commissioners, authorised in writing by the Revenue Commissioners to exercise the powers conferred by Chapter 4 of Part 2 of the Finance Act 2001 and I have reasonable grounds for suspecting that

* **(a)** certain goods to wit

the same being goods which are liable to forfeiture under the law relating to excise,
 * and/or

* **(b)** records relating to transactions in contravention of the law relating to excise,

* is/are kept or concealed on or at the premises or place, namely,

_____ at _____ in the *Dublin
 Metropolitan District /District Court Area of _____ District No. _____

The grounds for so suspecting are as follows (use the back of this form or a separate sheet as necessary): _____

I hereby apply for a warrant to search the said premises or place pursuant to Section 136(5) of the Finance Act 2001.

Signed _____ (Informant)

Sworn before me at _____

this ____ day of _____ 20____,

Signed _____

Judge of the District Court

***delete inapplicable part**

AN CHÚIRT DÚICHE



THE DISTRICT COURT

SEARCH WARRANT

SECTION 136(5) OF THE FINANCE ACT 2001

*Dublin Metropolitan District/District Court Area of _____ District No. _____

Whereas from the information on Oath and in writing under section 136(5) of the above mentioned Act sworn before me on this day, by _____ an Officer of the Revenue Commissioners, authorised in writing by the Revenue Commissioners to exercise the powers conferred by Chapter 4 of Part 2 of the Finance Act 2001, of _____

I AM SATISFIED that there are reasonable grounds for suspecting that

* **(a)** certain goods to wit,

the same being goods which are liable to forfeiture under the law relating to excise,

* and/or

* **(b)** records relating to transactions in contravention of the law relating to excise,

* is/are kept or concealed on or at the premises or place, namely, _____

at _____ in the * Dublin

Metropolitan District/District Court Area aforesaid.

THIS IS TO AUTHORISE you _____ the said Officer of the Revenue Commissioners, accompanied by such other officers and such other persons as you consider necessary,

- (a) at any time or times within one month from the date hereof, to enter, if necessary by the use of reasonable force, the said premises or place at _____ in the
*District/Court Area aforesaid,
- (b) to search or cause to be searched such premises or place and to inspect any thing or record found there,
- (c) to require any person present to produce for inspection any record or thing in that person's possession, custody or procurement,
- (d) to seize any thing found there, or in the possession of a person there, if there are reasonable grounds for suspecting that the thing is liable to forfeiture under the law relating to excise, or exercise, in relation to any thing so found or in the possession of such a person, the power of detention under section 140 of the Finance Act 2001,
- (e) to remove, or cause to be removed, from there anything or record that the said Officer has reason to believe may be of value to the investigation of an excise offence, or as evidence in proceedings under excise law, or for the purpose of assessing any duty payable under excise law or any other tax payable under the Acts within the meaning assigned to that term by section 1078(1) of the Taxes Consolidation Act 1997 and to retain such thing or record for so long as it is reasonably required for these purposes, and
- (f) to take any other steps which may appear to the said Officer to be necessary for preserving any such thing or record and preventing interference with it.

The authority conferred by this search warrant to retain (or to cause to be retained) any record or thing includes:

- (a) in the case of books, documents or records, authority to make and retain a copy of the books, documents or records, and
- (b) authority to remove and, for as long as necessary, retain, any computer or other storage medium in which records are kept and to inspect, copy, or cause to be copied, such records.

An officer acting pursuant to this search warrant may:

- (a) operate any computer at the premises or place that is being searched, or cause any such computer to be operated by a person accompanying the officer,

- (b) operate any computer removed from the premises or place searched under the warrant or cause such computer to be operated by a person accompanying the officer, and
- (c) require any person at the premises or place who appears to the officer to be in a position to facilitate access to the records and information held in a computer, or to records and information that can be accessed by the use of that computer-
- I. to give to the officer any password or guidance necessary to operate it,
 - II. to enable the officer to examine the information accessible by the computer in a form in which the information is visible and legible, or
 - III. to produce the information in a form in which it can be removed and in which it is, or can be made, visible and legible.

Any record or thing retained by an officer pursuant to this search warrant which is required for the purposes of any legal proceedings, whether criminal proceedings or otherwise, may be retained for so long as it is reasonably required for those purposes.

Dated this _____ day of _____ 20____

Signed _____

Judge of the said District Court assigned to said District

***delete inapplicable part**

To: (name of officer obtaining warrant)

Address: (officer's address)

AN CHÚIRT DÚICHE



THE DISTRICT COURT

INFORMATION

SECTION 29 OF THE CUSTOMS ACT 2015

*Dublin Metropolitan District/District Court Area of _____ District No. ____

The information of _____

attached to _____ who says on oath: -

I am an officer of customs and I have reasonable grounds to suspect that *a thing liable to forfeiture under the Customs Acts *and/or records relating to transactions in contravention of the Customs Acts, to wit,

*is/are kept or concealed on or at premises or land of, namely, _____

at _____

in the *Dublin Metropolitan District/District Court Area of _____ District No. ____

The grounds for so suspecting are as follows (use the back of this form or a separate sheet as necessary):

I hereby apply for a warrant to search the said premises or land pursuant to section 29 of the Customs Act 2015.

Signed _____ (Informant)

Sworn before me at _____

this _____ day of _____ 20 _____

Signed _____

Judge of the District Court

***delete inapplicable part**

AN CHÚIRT DÚICHE



THE DISTRICT COURT

SEARCH WARRANT

SECTION 29 OF THE CUSTOMS ACT 2015

*Dublin Metropolitan District/District Court Area of _____ District No _____

Whereas from the information on Oath and in writing under section 29 of the above mentioned Act sworn before me this day, by _____ an officer of Customs authorised in writing by the Revenue Commissioners to exercise the powers conferred by the said Act, of _____

I AM SATISFIED that there are reasonable grounds to suspect that

* **(a)** a thing liable to forfeiture under the Customs Acts to wit,

*and/or

* **(b)** records relating to transactions in contravention of the Customs Acts

*is/are kept or concealed on or at premises or land, namely _____
_____ at _____ in the * Dublin
Metropolitan District/District Court Area aforesaid.

THIS IS TO AUTHORISE you _____, the said officer of customs, accompanied by such other officers of customs or persons or both as you consider necessary, at any time or times within one month from the date of issue of this warrant, to enter, if necessary by the use of reasonable force, the said premises or land at _____ in the *District/District Court Area aforesaid.

- (a) to search the premises or land,
- (b) to require any person found on the premises or land to remain there for the duration of the search,
- (c) to examine anything found on the premises or land,
- (d) to inspect any record found on the premises or land, and
- (e) if there are reasonable grounds to suspect that anything found is liable to forfeiture under the Customs Acts, or that anything found, including records, may be required as evidence in any proceedings under the Customs Acts or any other enactment, to seize or detain the thing as liable to forfeiture or, in the case of records, to detain them for so long as is reasonably required.

Dated this ____ day of _____ 20____

Signed _____
Judge of the said District Court assigned to said District

To: (name of officer obtaining warrant)

Address: (officer's address)

***delete inapplicable part**

Appendix 4: Sample Witness Statement-Excise Licences

Specimen statement made pursuant to Section 21 of the Criminal Justice Act 1984

I, John Smith, aged over 18 years, am an Executive Officer employed by the Revenue Commissioners in the Compliance Branch 1 Galway / Roscommon, Co. Roscommon.

I have examined the records held by the Revenue Commissioners pertaining to the issuing of Intoxicating Liquor Licences and I declare that on 5th April 2017, A.N. Other of 'Joyful Pubs Limited' was not the holder of a current licence for the sale of intoxicating liquor at B_____, Co. Galway.

I declare that this statement is true to the best of my knowledge and belief and I have made this statement knowing that if it is tendered in evidence, I will be liable to prosecution if I state in it anything which I know to be false or did not believe to be true.

SIGNED: _____

NAME: John Smith

Appendix 5: Specimen Notices of Detention/Seizure

	Detention/Seizure	What is it used for?
A	Notice of Detention under section 33 of Customs Act 2015	This notice is to be issued when an officer detains goods either without payment of duties payable or in contravention of any prohibition or restriction on their importation or exportation or detention of a vehicle in order to conduct an examination, enquiries or investigation to determine whether the goods/vehicle are liable to forfeiture or will be required to be used as evidence in criminal proceedings.
B	Notice of Seizure under section 18 of Customs Act 2015	This notice is to be used when seizing as liable to forfeiture any goods in respect of which an offence has been committed under section 14 or 15 of Customs Act 2015 or any other goods liable to seizure under section 17 of Customs Act 2015.
C	Notice of Seizure under section 142 of Finance Act 2001	This notice should be used when seizing mineral oil, pumps, vessels or other equipment at the premises or place supplying the mineral oil.
D	Notice of Seizure under section 142 of Finance Act 2001	This notice should be used in instances of unstamped tobacco products or tobacco smuggling.
E	Notice of Seizure under section 142 of Finance Act 2001	This notice should be used when seizing alcohol under section 125 of Finance Act 2001 for smuggling offences and/or for other alcohol offences under section 79 of Finance Act 2003.

A. Notice of Detention under section 33 of Customs Act 2015

NOTICE OF DETENTION

Customs Act 2015, Section 33

Address of Revenue Office

Name

Address

Notice is hereby given that certain goods, to wit,

*1. (Detailed description of goods including quantity) were detained by me pursuant to section 33(1) of the Customs Act 2015 on _____ at _____ for examination, enquiries or investigations as to whether or not the goods –

(a) are being or have been imported, or

(b) are being, or are intended to be, exported,

either without payment of any duty of customs payable or in contravention of any prohibition or restriction on their importation or exportation.

*2. Motor Vehicle Registration number _____ *and trailer number _____ *was/were detained by me pursuant to section 33(2) of the Customs Act 2015 on _____ at _____.

*3. (Detailed description of goods including quantity) were detained by me pursuant to section 33(4) of the Customs Act 2015 as I have reasonable grounds to suspect that they may be required as evidence in criminal proceedings under an enactment other than the Customs Acts.

Dated: _____

Signed: _____ Officer of Customs

*delete as appropriate

Explanatory Note (not for issue as part of Detention Notice)

This notice is to be issued when an officer detains goods or a vehicle in order to conduct an examination, enquiries or investigation to determine whether the goods/vehicle are liable to forfeiture or will be required to be used as evidence in criminal proceedings.

Please ensure that the information on the next page is issued with this document

INFORMATION REGARDING DETAINED GOODS

Section 33(1) of the Customs Act 2015 (“the Act”) states that where an officer of customs has reasonable grounds to suspect that any goods (a) are being or have been imported, or (b) are being, or are intended to be, exported, either without payment of any duty of customs payable on them or in contravention of any prohibition or restriction on their importation or exportation, the goods may be detained by the officer until such examination, enquiries or investigations as may be deemed necessary by him or her, or by another officer, have been made for the purpose of determining to the satisfaction of either such officer whether or not the goods were imported, or were being, or were intended to be, exported.

Section 33(2) of the Act states that where any goods are detained by an officer under section 33(1) all conveyances and other things made use of in their importation or exportation, as the case may be, may also be detained by the officer.

Section 33(3) of the Act states that where a determination referred to in section 33(1), has been made in respect of any goods, or upon the expiry of 30 days from the date on which those goods were detained, whichever is the earlier, the goods, together with any conveyances, or things detained with them under section 33(2) shall either be seized as liable to forfeiture under the Customs Acts, or released, as appropriate. If detained goods are subsequently seized, a Notice of Seizure will be issued, in accordance with section 18 (1) of the Customs Act 2015.

Section 33(4) of the Act states that where an officer of customs has reasonable grounds to suspect that any goods being imported or exported are goods that may be required as evidence in any criminal proceedings under any enactment other than the Customs Acts, the officer may detain such goods for such period of time as may be required to determine if they are so required as evidence and may place such goods in the custody of An Garda Síochána or another authority as appropriate for the purpose of such proceedings.

B. Notice of Seizure under section 18 of Customs Act 2015

NOTICE OF SEIZURE

Customs Act 2015, Section 18

Address of Revenue Office

Name _____

Address _____

Notice is hereby given that certain goods, to wit,

1. (Detailed description of goods including quantity) were seized by me pursuant to section 34 of the Customs Act 2015 on _____ at _____, the said goods being liable to forfeiture under section 17 of the Customs Act 2015.

2. Motor Vehicle Registration number _____ *and trailer number _____ *was/were seized by me pursuant to section 34 of the Customs Act 2015 on _____ at _____, the motor vehicle *and trailer being liable to forfeiture under section 17 of the Customs Act 2015.

Dated: _____

Signed: _____ Officer of Customs

*Delete as appropriate

Explanatory Note (not for issue as part of Seizure Notice)

This notice is to be used when seizing as liable to forfeiture any goods in respect of which an offence has been committed under section 14 or 15 of the Customs Act 2015 or any other goods liable to seizure under section 17 of the 2015 Act.

Please ensure that the information on the next page is issued with this document.

INFORMATION REGARDING SEIZED GOODS

Section 34 of the Customs Act 2015 empowers an officer of Customs to seize any goods or vehicles that are liable to forfeiture under the law relating to customs.

When goods, including means of transportation of the goods, are seized, the Revenue Commissioners may decide to offer terms for release and settle the case by agreement, or to refuse settlement.

The seizure of goods may be contested by the person from whom they have been seized, or by their owner, or a person authorised by him/her, by lodging a Notice of Claim. The Notice of Claim must:

- be made within 30 days from the date of the notice of seizure;
- where no such notice has been given, within 30 days from the date of seizure;
- be made in writing;
- clearly state the claimant's full name and address;
- state the basis on which the claim is grounded;
- be addressed to either -
 - a. the officer who seized the goods, or
 - b. the Assistant Principal of the Office of the Revenue Commissioners in whose area the goods were seized, or
 - c. the Revenue Commissioners, National Liaison Unit, 1st Floor, Block D, Ashtown Gate, Navan Road, Dublin 15.

When a Notice of Claim is received, the Revenue Commissioners may:

- offer settlement terms,
- or**
- institute civil proceedings under section 20 of the Customs Act 2015 for the forfeiture of the goods.

If a Notice of Claim is not received, the goods are by law deemed to be forfeit to the State and the Revenue Commissioners may:

- offer settlement terms,
- or**
- dispose of the goods.

When a customs offence is committed, in addition to seizure of the goods, the offender is liable to prosecution.

Note: On receipt of a Notice of Claim and unless settlement terms are offered and accepted, civil proceedings for the condemnation and forfeiture of the goods will be instituted by the Revenue Commissioners which will necessitate the appearance in Court of the person making the claim or his/her legal representative.

C. Notice of Seizure under section 142 of Finance Act 2001

NOTICE OF SEIZURE

Section 142 Finance Act 2001

(as amended by Section 47(a) Finance Act 2011)

Address of Revenue Office

Name _____

Address _____

Notice is hereby given that certain goods, to wit,

1. _____
_____ were seized by me, pursuant to Section 141 of the Finance Act 2001, on _____ at _____, on the grounds that the said goods were liable to forfeiture under Section 102(5)(a) of the Finance Act 1999.

2. _____
_____ *was/were seized by me pursuant to Section 141 of the Finance Act 2001, on _____ at _____, on the grounds that the said goods were liable to forfeiture under Section 102(5)(a) of the Finance Act 1999.

Dated this _____ day of _____ 20__

Authorised Officer

*Delete as appropriate

Explanatory Note (not for issue as part of Seizure Notice)

The above notice should be used when seizing 1. Mineral oil, or 2. Pumps, vessels or other equipment at the premises or place supplying the mineral oil.

Please ensure that the information on the next page is issued with this document.

INFORMATION REGARDING SEIZED GOODS

Section 141 of the Finance Act 2001 empowers an authorised officer of the Revenue Commissioners to seize any goods or vehicles that are liable to forfeiture under the law relating to excise.

When goods, including means of transportation of the goods, are seized, the Revenue Commissioners may decide to offer terms and settle the case by agreement, or to refuse settlement.

The seizure of goods may be contested by the person from whom they have been seized, or by their owner, or a person authorised by him/her, by lodging a Notice of Claim. The Notice of Claim must:

- be made within one month from the date of the notice of seizure;
- where no such notice has been given, within one month from the date of seizure;
- be made in writing;
- clearly state the claimant's full name and address;
- state the basis on which the claim is grounded;
- be addressed to either:
 - a. the officer who seized the goods, or
 - b. the Assistant Principal of the Office of the Revenue Commissioners in whose area the goods were seized, or
 - c. the Revenue Commissioners, National Prosecutions and Seizures Office, Áras Áiligh, Bridgend, Co Donegal.

When a Notice of Claim is received, the Revenue Commissioners may:

- offer settlement terms,
- or**
- institute legal proceedings for the forfeiture of the goods.

If a Notice of Claim is not received, the goods are by law deemed to be forfeit to the State and the Revenue Commissioners may:

- offer settlement terms,
- or**
- dispose of the goods.

When an excise offence is committed, in addition to seizure of the goods, the offender is liable to prosecution.

Note: On receipt of a Notice of Claim and unless settlement terms are offered and accepted, civil proceedings for the condemnation and forfeiture of the goods will be instituted by the Revenue Commissioners which will necessitate the appearance in Court of the person making the claim or his/her legal representative.

D. Notice of Seizure under the section 142 of Finance Act 2001

NOTICE OF SEIZURE

Section 142 Finance Act 2001,
(as amended by Section 47(a) Finance Act 2011)

Address of Revenue Office

Name _____

Address _____

Notice is hereby given that certain goods, to wit,

were seized by me, pursuant to Section 141 of the Finance Act 2001, on _____ at _____

on the grounds that the said goods were liable to forfeiture under Section 125 of the Finance Act 2001 *and/or Section 78(7) of the Finance Act 2005.

Dated this ____ day of _____ 20 ____.

Authorised Officer

*Delete as appropriate

Explanatory Note (not for issue as part of Seizure Notice)

The above notice should be used in instances of unstamped tobacco products or tobacco smuggling.
Please ensure that the information on the next page is issued with this document.

INFORMATION REGARDING SEIZED GOODS

Section 141 of the Finance Act 2001 empowers an authorised officer of the Revenue Commissioners to seize any goods or vehicles that are liable to forfeiture under the law relating to excise.

When goods, including means of transportation of the goods, are seized, the Revenue Commissioners may decide to offer terms and settle the case by agreement, or to refuse settlement.

The seizure of goods may be contested by the person from whom they have been seized, or by their owner, or a person authorised by him/her, by lodging a Notice of Claim. The Notice of Claim must:

- be made within one month from the date of the notice of seizure;
- where no such notice has been given, within one month from the date of seizure;
- be made in writing;
- clearly state the claimant's full name and address;
- state the basis on which the claim is grounded;
- be addressed to either:
 - a. the officer who seized the goods, or
 - b. the Assistant Principal of the Office of the Revenue Commissioners in whose area the goods were seized, or
 - c. the Revenue Commissioners, National Prosecutions and Seizures Office, Áras Áiligh, Bridgend, Co Donegal.

When a Notice of Claim is received, the Revenue Commissioners may:

- offer settlement terms,
- or**
- institute legal proceedings for the forfeiture of the goods.

If a Notice of Claim is not received, the goods are by law deemed to be forfeit to the State and the Revenue Commissioners may:

- offer settlement terms,
- or**
- dispose of the goods.

When an excise offence is committed, in addition to seizure of the goods, the offender is liable to prosecution.

Note: On receipt of a Notice of Claim and unless settlement terms are offered and accepted, civil proceedings for the condemnation and forfeiture of the goods will be instituted by the Revenue Commissioners which will necessitate the appearance in Court of the person making the claim or his/her legal representative.

E. Notice of Seizure under section 142 of Finance Act 2001

NOTICE OF SEIZURE

Section 142 Finance Act 2001
(as amended by Section 47(a) Finance Act 2011)

Address of Revenue Office

Name _____

Address _____

Notice is hereby given that certain goods, to wit,

were seized by me, pursuant to Section 141 of the Finance Act 2001, on _____ at _____

on the grounds that the said goods were liable to forfeiture under Section 125 of the Finance Act 2001 *and/or Section 79(10) of the Finance Act 2003.

Dated this ____ day of _____ 20 ____

Authorised Officer

*Delete as appropriate

Explanatory Note (not for issue as part of Seizure Notice)

The above notice should be used when seizing Alcohol under Section 125 of the Finance Act 2001 for smuggling offences and/or for other alcohol offences under Section 79 of the Finance Act 2003.

Please ensure that the information on the next page is issued with this document.

INFORMATION REGARDING SEIZED GOODS

Section 141 of the Finance Act 2001 empowers an authorised officer of the Revenue Commissioners to seize any goods or vehicles that are liable to forfeiture under the law relating to excise.

When goods, including means of transportation of the goods, are seized, the Revenue Commissioners may decide to offer terms and settle the case by agreement, or to refuse settlement.

The seizure of goods may be contested by the person from whom they have been seized, or by their owner, or a person authorised by him/her, by lodging a Notice of Claim. The Notice of Claim must:

- be made within one month from the date of the notice of seizure;
- where no such notice has been given, within one month from the date of seizure;
- be made in writing;
- clearly state the claimant's full name and address;
- state the basis on which the claim is grounded;
- be addressed to either:
 - a. the officer who seized the goods, or
 - b. the Assistant Principal of the Office of the Revenue Commissioners in whose area the goods were seized, or
 - c. the Revenue Commissioners, National Prosecutions and Seizures Office, Áras Áiligh, Bridgend, Co Donegal.

When a Notice of Claim is received, the Revenue Commissioners may:

- offer settlement terms,
- or**
- institute legal proceedings for the forfeiture of the goods.

If a Notice of Claim is not received, the goods are by law deemed to be forfeit to the State and the Revenue Commissioners may:

- offer settlement terms,
- or**
- dispose of the goods.

When an excise offence is committed, in addition to seizure of the goods, the offender is liable to prosecution.

Note: On receipt of a Notice of Claim and unless settlement terms are offered and accepted, civil proceedings for the condemnation and forfeiture of the goods will be instituted by the Revenue Commissioners which will necessitate the appearance in Court of the person making the claim or his/her legal representative.