

CHAPTER 4: Customs & Excise Offences

4.1	Customs Offences.....	1
4.2	Excise Offences; Excisable Products.....	9
4.3	Excise Offences – VRT.....	18
4.4	Excise Offences – Excise Licences.....	23
4.5	Excise Offences – Betting Duty.....	25
4.6	Excise Offences – Tobacco Tax Stamps.....	26

4.1 Customs Offences

The Customs Consolidation Act, 1876 (CCA) contains the primary enforcement legislation for dealing with Customs offences arising from importation into the State from a third country or, in the case of goods subject to restriction or prohibition, from any country. The Customs Act 1956 contains the primary enforcement legislation relating to exportation. The main offences likely to be encountered are detailed below.

OFFENCE	OFFENCE SECTION	PENALTY	NORMAL SUPPORTING MATERIAL
<p>Illegal importation. A person shall not:</p> <ul style="list-style-type: none"> • Import, bring in or be concerned in the importing/bringing in to the State goods contrary to prohibitions or restrictions or on which duties have not been paid or secured; • Be knowingly concerned with the importing, bringing in, harbouring or concealing of prohibited, restricted or uncustomed goods; • Be knowingly concerned in dealing with any such goods. <p>See Appendix 2 for full text of S.186, CCA1876.</p>	<p>S. 186, Customs Consolidation Act, 1876.</p> <p>[This normally relates to CCT duty and VAT where these taxes are evaded while an additional offence under S.119 Finance Act 2001 is applicable where an excise duty is evaded – see part 4.2].</p>	<ul style="list-style-type: none"> • €1,900 on summary conviction and /or up to 12 months imprisonment. • €12,695 on indictment or a fine of treble the duty*¹ paid value (whichever is the greater) and/or up to 5 years imprisonment. [S.186, CCA 1876 as amended]. • Forfeiture of goods concerned (incl. anything packed with or used to conceal them) [S.177 CCA 1876]. Seize under S.202, CCA 1876. • Arrest & charge of the person concerned (see Part 3.13). 	<ul style="list-style-type: none"> □ The court will require sworn evidence in relation to all aspects of the goods which are the subject of the alleged offence e.g. <ul style="list-style-type: none"> ▪ description & classification; ▪ quantity & value ▪ origin ▪ their liability to customs duties or to a prohibition or restriction in force at the time of their importation. □ Evidence of (a) importation of the goods and (b) the person who was in possession or control of the goods. □ The documentary evidence required can be very varied but should include, where appropriate:- <ul style="list-style-type: none"> ▪ entries/declarations(where they exist) and supporting documents; ▪ documents (including correspondence) relating to the ordering and acquiring of goods and payment for them; ▪ see more detailed indicative lists of relevant documentation at Part2.9 of this Manual.
<p>False Declarations Importation</p> <p>For goods in respect of which an entry has been made – making false declarations, signing false documents, not truly answering questions, and altering or counterfeiting customs documents and using false documents.</p>	<ul style="list-style-type: none"> ▪ S. 168 Customs Consolidation Act, 1876. ▪ An offence under S. 1078, T.C.A. 1997 also applies and carries heavier penalties – see page 3 & Appendix 5. 	<p>€630 or 2 years imprisonment (Finance (No 2) Act, 1915).</p> <p>Note: No forfeiture provision</p>	

¹ Duty = any import charge (e.g. customs, Anti-dumping duty, import levy etc.) and VAT at point of entry.

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<p>Fraudulent import entries and concealments. Misdescription of goods in order to avail of a lower rates of duty by virtue of the misdescription.</p>	<ul style="list-style-type: none"> ▪ S. 67, Customs Consolidation Act, 1876. ▪ An offence under S. 1078, T.C.A 1997 also applies and carries heavier penalties – see next page & Appendix 5. 	<ul style="list-style-type: none"> • Treble the duty – paid value or €125. • Forfeiture of goods concerned. 	<ul style="list-style-type: none"> • As listed above (Chapter 4.1 pg 1)
<p>Counterfeit Goods</p> <ul style="list-style-type: none"> ▪ Providing false or misleading information to Customs in an application for action to prevent release for free circulation, export or re-export of counterfeit goods under Council Regulation EC No 1383/2003 ▪ Importation or attempted importation of counterfeit goods; dealing with counterfeit goods. 	<p>Article 4.2 S.I. 344/2005</p> <p>S. 186, CCA 1876 as amended</p>	<ul style="list-style-type: none"> • €5,000 on summary conviction. • €1,900 and/or up to 12 months imprisonment on summary conviction. • TDV or €12,695 whichever is the greater and /or up to 5 years imprisonment on conviction or indictment 	

♦ **Duty** (as referred to above and at page 1 of this chapter) = any import charge (e.g. Customs, Anti-dumping duty, import levy, etc.) and VAT at point of entry.

OFFENCE.	OFFENCE SECTION	PENALTY.	NORMAL SUPPORTING MATERIAL
<p>Fraud/Evasion – any tax.</p> <p>Knowingly concerned in the fraudulent evasion of tax by the person or any other person.</p> <p>Knowingly concerned in or reckless as to whether or not the person is concerned in facilitating the fraudulent evasion of tax or the commission of an offence.</p> <p>Knowingly or wilfully, to: -</p> <ul style="list-style-type: none"> ▪ furnish incorrect information, return, statement or accounts in connection with any tax; ▪ aid, abet, assist or induce another person to furnish incorrect information, return, statement or accounts; ▪ claim relief/exemption from any tax to which the claimant is not entitled; or ▪ fail to comply with any provision of the Customs Acts or the Value-Added Tax Act, 1972 requiring the furnishing of any return, notification or particulars for the purposes of any tax. <p><i>Note: This offence applies in the case of failure to pay VAT on the intra-community acquisition of New Means of Transport other than motor vehicles – see full explanatory note at page 6/7 of this chapter.</i></p>	<p>S. 1078(1A) (C), T.C.A 1997 as amended by S. 142, F.A. 2005.</p> <p>(See Appendix 5).</p>	<ul style="list-style-type: none"> ▪ €3,000 on summary conviction (which may be mitigated to not less than 1/4) and/or up to 12 months imprisonment, (S. 1078(3)(a), T.C.A 1997 as amended by S.233 F.A.2001 & S.160, F.A. 2003). ▪ €126,970 on indictment and/or up to 5 years imprisonment. S (1078 (3)(b), T.C.A 1997 as amended by S. 211 F.A. 1999). 	<p>As listed above (page 1 of this chapter.)</p>

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<i>Exportation of any goods in contravention of any enactment or statutory instrument.</i>	S. 3, Customs Act, 1956.	<ul style="list-style-type: none"> Treble the duty paid value or €125 (whichever is the greater) [S.3, Customs Act, 1956 as amended by S. 34 F.A. 1963, S. 44 F.A. 1976, S.72 F.A. 1983 & schedule 5 F.A. 2001]. Forfeiture of goods concerned (incl. anything packed with or used to conceal them and the conveyance) [S.5 Customs Act 1956]. Seize under S. 202, CCA 1876. 	<ul style="list-style-type: none"> □ Evidence that the goods were exported. Exportation in this instance means the despatch of goods from the national territory of the State to other territories outside the State. □ Evidence that the exportation of the goods was in contravention of a statute or statutory instrument.
<ul style="list-style-type: none"> <i>Attempting to export any goods in contravention of any enactment or statutory instrument.</i> <i>Bringing or sending any goods to any place for the purpose of exportation in contravention of any enactment or statutory instrument.</i> <i>Attempting to being or send any goods to any place for the purpose of exportation in contravention of any enactment or statutory instrument.</i> 	S. 3, Customs Act, 1956.	<ul style="list-style-type: none"> Treble the duty paid value or €125 (whichever is the greater) [S.3, Customs Act, 1956 as amended by S.34 F.A. 1963, S. 44 F.A. 1976, S.72 F.A. 1983 & schedule 5 F.A. 2001]. <p>Forfeiture of goods concerned (incl. Anything packed with or used to conceal them and the conveyance) [S.5 Customs Act 1956]. Seize under S. 202, CCA 1876.</p>	<ul style="list-style-type: none"> □ Evidence of an attempt to export the goods although no exportation took place, or □ Evidence that the goods were brought or sent to a place (or attempted to be brought/send) with the intention of exportation. □ Documentary evidence indicating the intention to export the goods. □ Statements either from those involved or from witnesses to the events. □ Observations of officers with regard to the movement, storage and handling of the goods.

4.1 Customs Offences

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<i>Being knowingly concerned in dealing with any goods (being goods the exportation of which is prohibited or restricted by any enactment or statutory instrument) with intent to evade such prohibition or restriction.</i>	S. 3, Customs Act, 1956.	<ul style="list-style-type: none"> Treble the duty paid value or €125 (whichever is the greater) [S.3, Customs Act, 1956 as amended by S.34 F.A. 1963, S. 44 F.A. 1976, S.72 F.A. 1983 & schedule 5 F.A. 2001]. Forfeiture of goods concerned (incl. anything packed with or used to conceal them and the conveyance) [S.5 Customs Act 1956]. Seize under S. 202, CCA 1876. 	Evidence that: <ul style="list-style-type: none"> ❑ The goods were subject to a prohibition or restriction. ❑ The offender had control, possession or was in some way in charge of the goods. ❑ The offender's intention was to evade the prohibition or restriction and ❑ The offender was doing so in the knowledge that a prohibition or restriction applied to the goods in question.
<i>Keeping any goods at any place for the purpose of facilitating their exportation in contravention of any enactment or statutory instrument.</i>	S. 3, Customs Act, 1956	<ul style="list-style-type: none"> As above. 	<ul style="list-style-type: none"> ❑ The officer must show that the goods were kept in the place in which they were stored with a view to their exportation and that the goods were the subject of a legislative provision in regard to their exportation.
<i>Aiding and abetting or assisting another person or conspiring with another person to commit any of the above exportation offences.</i>	S. 3, Customs Act, 1956	<ul style="list-style-type: none"> As above. 	<ul style="list-style-type: none"> ❑ The officer must show that the suspected offender was involved in the preparation of the planned action. The onus is on the officer to demonstrate that the person or persons were knowingly concerned in assisting the principal offender of the principal exportation offences above.

Note 1: VAT on the intra-community acquisition of a new means of transport

VAT is payable in the intra-community acquisition of a New Means of Transport (NMT)* by a person in the State not entitled to VAT deductibility.

The provisions governing such payment are contained in the VAT Act, 1972, sections 2 (1A); 19(1A) and 19(4) and also in S.I. 248/1993 [Value-Added Tax (Payment of Tax on Intra-Community Acquisition of certain NMT's) Regulations 1993].

The following are the main provisions:

❑ **VAT on an NMT which is a motor vehicle:**

- ❑ Once a vehicle is designated as an NMT in the Member State of supply, VAT must be paid or accounted for in the State irrespective of when the vehicle is declared for registration.
- ❑ Except where the acquirer is entitled to a deduction under section 12, VAT Act, 1972, VAT is payable at time of registration for VRT purposes (i.e. not later than 30 days following arrival of the vehicle in the State) or where registration of the vehicle is not required, by the 15th of the month following acquisition.
- ❑ Where VAT has not been paid, the vehicle is liable to seizure under S. 27 A (21), VAT Act 1972, inserted by Schedule 5, Part 3 Finance (No 2) Act 2008. **NB – Officers should note that the VAT detention and seizure provisions listed on current authorisation cards - Section 27(9A) VAT Act 1972 - have now been repealed. A new authorisation is required for the use of the replacement Section 27A detention and seizure powers introduced by the Finance No. 2 Act 2008. Officers should refrain from using the new powers pending the issue of these authorisations.**
- ❑ The main offence is S. 1078 2 (i), T.C.A. 1997.

❑ **VAT on a NMT which is a vessel or aircraft:**

- ❑ Except where the acquirer is entitled to a deduction under section 12, Vat Act 1972, the person shall complete the form approved by Revenue and provide supporting documents [Art. No. 4 of S.I. No. 248/93]
- ❑ The completed form and supporting documents with the due amount of tax shall be furnished, not later than 3 days after the due date, to the Collector of C & E in the area where the person resides and make the vessel/aircraft available for inspection in the State [Art No. 4 of S.I. no 248/93]
- ❑ The due date for payment of the tax is the 15th of the month following the month of intra-community acquisition or the date of issue of the invoice by the supplier in the OMS, whichever is the earlier [S. 19(1A) of the VAT Act, 1972 (as amended)].
- ❑ Where the VAT has not been paid, the vessel or aircraft is liable to seizure under S27A(21), inserted by inserted by Schedule 5, Part 3 Finance (No 2) Act 2008
- ❑ The principal customs offences and enforcement provisions applicable to failure to pay VAT in these situations are highlighted at Part 3.11 (page 42) and 4.1 (page 3) of this Manual.

* “New means of transport” means motorised land vehicles with an engine cylinder capacity exceeding 48 cubic centimetres or a power exceeding 7.2 kilowatts, vessels exceeding 7.5 metres in length and aircraft with a take-off weight exceeding 1,550 kgs

(a) Which are intended for the transport of persons or goods, and

(b) [(i) which in the case of vessels and aircraft were supplied three months or less after the date of first entry into service and in the case of land vehicles were supplied six months or less after the date of first entry into service, or

(ii) which have travelled 6,000 kilometres or less in the case of land vehicles, sailed for 100 hours or less in the case of vessels or flown for 40 hours or less in case of aircraft,

Other than vessels and aircraft of the kind referred to in paragraph (v) of the Second Schedule]. (Section 1, VAT Act 1972, as amended.)

Note 2: VAT on Third Country imports

The legal powers listed in Part 4.1 above also apply to import VAT. **Section 15(6), VAT Act, 1972** is legal basis for applying the Customs Acts to VAT as if it were a duty of Customs. In practice, Customs Offences involving import VAT alone are unlikely to lead to Customs enforcement action where the importer is a registered trader. In these circumstances, the import VAT is a redeemable input tax and any liability arising from subsequent disposal of the goods is not a Customs matter.

Note 3: Prohibitions and restrictions on importation

These may range over a wide area and can be imposed for a variety of reasons. In certain circumstances more than one prohibition may apply to the same goods. For example, some animals may have both a health and CITES prohibition. Compliance with only one of these is insufficient for legal importation. In other cases prohibitions may be seasonal in practice. For example, textiles may have quotas for imports from specified countries. If the quota becomes exhausted during the quota period subsequent imports are prohibited until a new quota period begins. During a valid quota period imports are restricted to goods for which a valid quota licence has been issued.

A Table of prohibitions and restrictions was originally included in Section 42, CCA and these were prohibited goods referred to in Section 186 of that Act. However, Section 2, Customs Act, 1956 provided that any goods prohibited or restricted under any enactment were deemed to be included in this Table and, therefore, Section 186 offences apply to all prohibited or restricted goods. The text of Sections 2 & 3 the Customs Act 1956 is reproduced at Appendix 3.

Many prohibitions are related to the country of origin of the goods. In such cases evasion may take the form of misdescription of the nature and/or origin of the goods. Although the object may be to circumvent a prohibition it should be borne in mind that the effect of such misdescriptions may also have a fiscal impact.

It should be noted that some prohibitions and/or restrictions may also apply to Intra-community trade. The most common of these, outside of narcotics, are:

- Explosives
- Firearms and ammunition
- Obscene videos, books etc. (Public morals)
- Certain animals and animal products (prevention of Rabies and B.S.E.).

Council Directive 92/12/EEC introduced an EU regime covering the holding, movement, and control of excisable products within the Community. The national enabling legislation is contained in Sections 96 to 117 of the Finance Act 2001.

Council Directive 92/12/EEC applies to intra-Community movements of excisable products which are under duty suspension arrangements or to excisable products which are released for consumption, having been duty paid, in another Member State of the EU. They do not apply to excisable products obtained in duty-free retail outlets or to excisable products imported from third countries which are not in free circulation within the Community.

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

- importation
- exportation and
- fraudulent exemption or repayment/remission claims.

They also relate to illegal production, processing and holding of excisable products which are set down in the Finance Act 2001 (warehousing) and in Mineral Oil Tax, Excise Duty on Tobacco Products and Alcohol Products Tax law.

Details of the main offences are outlined below.

OFFENCE	OFFENCE SECTION	PENALTY	NORMAL SUPPORTING MATERIAL
<u>Evasion of Excise Duty:</u>			
1. 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.	S. 119 (1) F.A. 2001.	<ul style="list-style-type: none"> • €5,000 on summary conviction and/or up to 12 months imprisonment. • €12,695 on indictment or a fine treble the duty paid value of the goods (whichever is the greater) and/or up to 5 years imprisonment [S.119(3)(a) F.A. 2001]. • Forfeiture of goods & conveyance [S. 125, F.A. 2001]. 	Evidence that: <ul style="list-style-type: none"> <input type="checkbox"/> The duty has not been paid; <input type="checkbox"/> The person was in possession of the products; <input type="checkbox"/> The person was knowingly concerned in the evasion of duty (ideally, an admission of guilt under caution or having been caught in the act). <input type="checkbox"/> No declaration was made (if/where appropriate). <input type="checkbox"/> Note also the presumptions in S. 131, F.A. 2001 (in relation to burden of proof etc. in taking proceedings).
2. Evasion or attempted evasion of excise duty.	S. 119 (2) F.A. 2001.	<ul style="list-style-type: none"> ▪ Where mineral oils are the subject of the offence and the convicted person is licensed under S. 101 F.A. 1999, the Court shall impose a temporary prohibition of trade order under S. 102 F.A. 1999 inserted by S. 61 F.A. 2007 	<ul style="list-style-type: none"> <input type="checkbox"/> In the case of counterfeit spirits it shall be presumed that excise duty has not been paid until the contrary is proved.
3. Keeping for sale, selling or delivering unexcised spirits including counterfeit spirits.	S. 79 (7) F.A 2003 as inserted by S. 62 F.A. 2005 and amended on S. 82 F.A. 2006.	<ul style="list-style-type: none"> • €5,000 on summary conviction. • Forfeiture of the spirits. • Where the person convicted of the offence is licensed under S. 2 Intoxicating Liquor Act 2003, the provisions of S. 9 in relation to temporary closure of premises shall apply (S. 62(9) F.A.2005). 	

OFFENCE.0	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
Marked Mineral Oil/Laundered Oil Offences <ul style="list-style-type: none"> To use as a propellant/keep in a fuel tank; to purchase/receive from unlicensed trader unlicensed traders etc. To offer for sale, keep for sale, sell or deliver laundered oil. To remove /attempt to remove markers; dealing² in laundered oil or to keep laundering equipment on land or premises. 	<p>S. 102 (1) F.A. 1999 as amended by S. 94 F.A. 2003</p> <p>S. 102 (1A) F.A. 1999 as amended by F.A. 2007</p> <p>S. 61 FA 2007</p> <p>S. 102 (3) F.A. 1999</p>	<ul style="list-style-type: none"> €5,000 on summary conviction [S. 102 (2) F.A. 1999 as amended by S. 77 F.A. 2008] Forfeiture of the vehicle for 2nd offence; concealed tank or non resident owner €5,000 and or 12 months imprisonment on summary conviction S. 102 (4) €12,695 on conviction or indictment and or up to 5 years imprisonment. Temporary Prohibition of Trade Order where a person is licensed under S. 101, F.A. 2001 [S.102 A F.A. 1999 inserted by S.61, F.A. 2007] Forfeiture of the oil. €5,000 and/ or up to 12 months imprisonment on summary conviction. €12,695 and or up to 5 years imprisonment on conviction on indictment. 	<ul style="list-style-type: none"> ☐ Certificate of analysis indicating sulphur content issued by the State Chemist plus expert witnesses, where appropriate. ☐ <i>Note:</i> Presumption in S. 103, F.A. 1999 as amended by S. 95, F.A. 2003 & S.68, F.A. 2005 ☐ Certificate of analysis in respect of any mineral oils found. ☐ In the case of premises or land, evidence of title/ownership or lease.
³ Failure to comply with the rules and regulations relating to the production, processing and holding of excisable products by a person or in a premises, whether approved or not.	<u>S. 121 F.A 2001.</u>	<ul style="list-style-type: none"> €5,000 on summary conviction [S. 124 F.A. 2001] and S. 82 F.A. 2006. Forfeiture of goods [S. 125, F.A. 2001]. 	<ul style="list-style-type: none"> ▪ Evidence of non-approval or non-compliance with the terms or conditions of an approval granted by the Revenue Commissioners in relation to a person or premises.

² **Where the person convicted of a dealing offence under S102(1A) or 3 (b), FA 1999 is licensed under S101, the Court shall impose a temporary prohibition of trade order under S.102A FA 1999 inserted by S61 FA2007.

³ *As an alternative, a person who contravenes or fails to comply with the conditions or requirements relating to the production, processing and holding of excisable products is also liable to an administrative penalty of €1,900 under the provisions of S.124 F.A. 2001 as inserted by S.99 F.A. 2003 and amended by S.47 F.A. 2004.

4.2 **Excise Offences: Excisable Products.**

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<ol style="list-style-type: none"> 1. Failure to comply with the rules and regulations relating to the importation of excisable products which have been duty paid in OMS. 2. Possession by a third party of excisable products knowing that the legal requirements relating to notification & duty payment have not been fulfilled. 	<p>S. 121, F.A. 2001.</p> <p>(See page 15/16 of this chapter & Appendix 9 for guidance on whether an importation is of a commercial or personal nature)</p>	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F. A. 2001] and S. 82 F.A. 2006. • Forfeiture of goods & conveyance [S. 125, F.A. 2001]. 	<p>Evidence of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Goods duty paid in another Member State. <input type="checkbox"/> Importation. <input type="checkbox"/> Quantity being commercial – See Page 109/110 & Appendix 9 for guidance on this. <input type="checkbox"/> Notification of movement not provided. <input type="checkbox"/> Duties not secured in advance of movement. <input type="checkbox"/> Possession/control of non-duty paid products. <input type="checkbox"/> Knowledge by the offender of the status of the products.
<p>Failure of a tax representative to comply with the conditions of approval.</p>	<p>S. 121, F.A. 2001.</p>	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001] and S. 82 F.A. 2006 • Forfeiture of goods & conveyance [S. 125, F.A. 2001]. 	<p>The officer must show:</p> <ul style="list-style-type: none"> <input type="checkbox"/> That the person was approved as a tax representative; <input type="checkbox"/> That s/he was acting in that capacity in relation to the excisable products complained of; <input type="checkbox"/> That s/he acted outside the terms and conditions of approval; <input type="checkbox"/> That the products were imported; <input type="checkbox"/> That excise duty was not paid.

4.2 **Excise Offences: Excisable Products.**

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
Failure to comply with regulations governing the <i>movement into the State</i> of excisable products released <i>under the duty suspension system</i> in another Member State for export to Ireland.	S. 121, F.A. 2001.	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F. A. 2001] and S. 82 F.A. 2006. • Forfeiture of goods & conveyance [S. 125, F.A. 2001]. 	<ul style="list-style-type: none"> ❑ Evidence that 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 S. 110(4). ❑ Evidence that the products were imported and that excise duty was not paid. ❑ Knowledge by the offender, found possession of the products, of the status of the products.
<i>Failure</i> by persons in charge of excisable products released under duty suspension <i>to carry the required documentation.</i>	S. 121, F.A. 2001.	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001] as amended by and S. 82 F.A. 2006 • Forfeiture of goods & conveyance [S. 125, F.A. 2001]. 	<p>The officer must demonstrate:</p> <ul style="list-style-type: none"> ❑ non-possession of the relevant documentation. ❑ That the relevant documentation was not prepared at the time of despatch.

OFFENCE.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<p>(a) 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;</p> <p>(b) Importation, without approval as a Tax Representative for a non-State vendor, of excisable products, released for consumption in OMS.</p>	S. 121, F.A. 2001 (breach of S. 112 F.A. 2001).	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. • Forfeiture of goods & conveyance [S. 125 F.A. 2001]. 	<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 & their status.
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 .	S. 121, F.A. 2001.	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. 	<ul style="list-style-type: none"> ❑ 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.
Submission of a fraudulent claim or return in relation to the repayment of excise duty on excisable products.	<ul style="list-style-type: none"> ▪ S. 122, F.A. 2001. ▪ An offence under S. 1078 T.C.A. 1997 also applies and carries heavier penalties – see Chapter 4.1, Page 3 & Appendix 5. 	<ul style="list-style-type: none"> • €5,000 summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. 	<p>The officer must demonstrate that:</p> <ul style="list-style-type: none"> ❑ the substance of the claim is false; ❑ the goods were not despatched 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.	OFFENCE SECTION.	PENALTY.	NORMAL SUPPORTING MATERIAL.
Submission of a <i>fraudulent claim</i> or return in relation to <i>exemption</i> from excise duty on excisable products.	<ul style="list-style-type: none"> ▪ S. 122, F.A. 2001. ▪ An offence under S. 1078, T.C.A. 1997 also applies and carries heavier penalties – see Part 4.1, Page 3 & Appendix 5. 	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. 	<ul style="list-style-type: none"> □ The officer must provide documentary evidence which demonstrates that the exemption claim is false.
Submission of a <i>fraudulent claim</i> in relation to <i>remission</i> of excise duty on excisable products claimed to have been lost during production, processing, holding or transportation.	<ul style="list-style-type: none"> ▪ S. 122 F.A. 2001. ▪ An offence under S. 1078, T.C.A. 1997 also applies and carries heavier penalties – see Part 4.1, Page 3 & Appendix 5. 	<ul style="list-style-type: none"> • €5,000 on summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. 	<ul style="list-style-type: none"> □ The officer must provide documentary evidence which demonstrates that the remission claim is false.
<i>Resisting, obstructing or impeding an officer</i> in the exercise of his/her powers <i>in relation to stopping/searching/examining vehicles</i> for excisable products or <i>in relation to the detention of goods &/or vehicles.</i>	S. 1078(2)(j) TCA 1997.	<ul style="list-style-type: none"> • €5,000 on summary conviction and/or up to 12 months imprisonment (S. 1078(3)(a), TCA 1997). • Fine not exceeding €126,970 and/or up to 5 years imprisonment. (S.1078(3)(b), TCA 1997). 	<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.	PENALTY.	NORMAL SUPPORTING MATERIAL.
<p>1. <i>*Failure/refusal to: -</i></p> <ul style="list-style-type: none"> <i>allow entry to premises where excisable products are being processed, held etc. or to allow search for and inspection of books, documents etc.</i> <i>give information required by an officer;</i> <i>give name & address</i> <p>2. <i>Provision of false or misleading information (including false name/address).</i></p> <p>3. <i>Resisting, obstructing or impeding an officer in the exercise of powers relating to excisable products.</i></p>	<p>S. 123(b)&(c), F.A. 2001</p> <p>S. 1078(2)(j) TCA 1997.</p>	<ul style="list-style-type: none"> €5,000 on summary conviction [S. 124 F.A. 2001 as amended by S. 82 F.A. 2006]. €5,000 on summary conviction and/or up to 12 months imprisonment (S.1078 (3)(a), TCA 1997). Fine not exceeding €126,970 and/or up to 5 years imprisonment. (S.1078(3)(b), TCA 1997). 	<ul style="list-style-type: none"> □ Evidence to show that information provided by the person is false or misleading □ Evidence of failure to comply with a legitimate request to allow entry, search, inspection etc. □ Evidence of failure to provide name/address or of false name/address supplied. □ Clear evidence of obstruction, preferably by more than one officer (statement of officer and witness, if any).

** As an alternative, a person who contravenes or fails to comply with the conditions or requirements relating to the production, processing and holding of excisable products is also liable to an administrative penalty of €1,900 under the provision of S. 124A F.A. 2001 as inserted by S. 99 F.A. 2003 and amended by S. 47 F.A. 2004.*

**Guidelines for investigating whether Excisable Products were acquired for commercial purposes.
(contrary to S. 119, Finance Act 2001)**

Under Section *104(2)(a) of the 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 (a) they are for his/her own use and not for commercial purposes and (b) the individual concerned travels with the goods. Article 25 of S. I. No 443/2001 (as exercised under the powers conferred in S. 153 of the Finance Act 2001) sets out the guideline limits and criteria whereby products may be regarded as being acquired for commercial purposes. A copy of Article 25 and the guideline quantities is at Appendix 9.

Quantity alone cannot determine that the acquisition is of a commercial nature except in those cases where sufficient inferences can be drawn from such quantity and in the absence of an acceptable alternative account or reason. Accordingly “own use” can be taken as applying to private individuals and their families generally and to a wedding, birthday party or anniversary etc. which the individual in question would be responsible for providing at his/her own expense.

In order 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 do 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.
- ❑ If regularly, why a purchase of a considerable quantity was 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 ask for copies of receipts, if available. *The purpose here is to get evidence that the goods have been released for consumption in OMS. In the absence of receipts. Evidence of the markings on the products will have to be obtained and a sample will probably have to be shown to a witness from the manufacturer, who would subsequently have to give evidence in Court.*

- ❑ Depending of his/her means the source of the funds.
- ❑ His/her normal consumption per day or week of such products or the consumption of family members.

A caution under the Judges' Rules is not essential prior to asking the above question although obviously such a necessity may arise in the course of the interview (see Parts 2.5 & 2.6 of this Manual). If the detecting officer believes that the acquisition was for a commercial purpose (i.e. an offence under S. 119, F.A. 2001), then such belief should be put to the suspect who should be asked to comment on it or on any particular matter giving rise to that belief.

***The provisions of S. 104(2)(a) do not apply in the case of tobacco products released for consumption in the 10 new Member States with the exception of Cyprus and Malta with effect from 5th May, 2004 by virtue of S. 46 F.A. 2004 and S.I. 201 of 2004.**

VRT offences can be divided into four broad categories:

1. Offences connected to registration/payment of VRT;
2. Offences committed specifically by persons authorised under S. 136, Finance Act 1992;
3. Offences associated with Vehicle Registration Certificates, declarations etc and
4. Offences involving fraudulent repayment claims.

The following table sets out the more common offences, which arise under each category and indicates the legislative basis for each offence as well as the penalties applicable. Where the penalty includes a forfeiture provision (as shown in the third column below), the vehicle concerned may be seized by an authorised officer under S. 141, F.A., 2001:-

OFFENCE	OFFENCE SECTION	PENALTY
OFFENCES CONNECTED TO REGISTRATION/PAYMENT OF VRT		
<p>1. Possession of an unregistered vehicle (except where authorised under Section 136, Finance Act 1992 or where the vehicle is the subject of an exemption under section 135, F.A. 1992)</p> <p>[Ref. In the Law: Possession of an unregistered vehicle is contrary to S.131 (4), F.A. 1992 and the obligation to register it is not later than 30 days following its arrival is contained in Art. 8(1), S.I. 318/92 as amended by Art.3 (f) of S.I.400 of 2010].</p> <p>Where a State resident is encountered for the first time in possession of a vehicle legally brought into the State by a qualified person, on a temporary basis, the Officer should issue a verbal warning to the State resident and to the person who was granted TE, where possible, that they are in breach of VRT legislation and that any future similar occurrence may result in the seizure of the vehicle (possession offence).</p>	S.139 (3) (a), Finance Act 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S.139 (4), F.A. 1992). • Forfeiture of Vehicle (s.139 (6), F.A. 1992).
<p>2. Possession of a vehicle in breach of TOR Regulations.</p> <p>[Ref. In the Law: The conditions which must be complied with and which may have been breached are contained in Art.4(6) of S.I. 59/93].</p>	S.139(3)(b), Finance Act, 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S.139(4),F.A. 1992). • Forfeiture of Vehicle (S.139(6)F.A.1992).
<p>3. Failure to pay VRT due.</p> <p>[Ref. In the Law: Payment of VRT due is required by S.132(2), F.A. 1992 and by S. 132(6)F.A. 1992 for change of use (e.g.TOR, VRT repayments etc.)]</p>	S. 139(3)(d), Finance Act 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S.139(4), F.A. 1992). • Forfeiture of Vehicle (S.139(6), F.A. 1992).

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p>[4] Breach of Temporary Exemption regulation by the person who was granted TE.</p> <p>[Ref. In the Law: The conditions which must be complied with and which may have been breached are contained in Art. 5 of S.I. 60/93].</p> <p>Where a State resident is encountered for the first time in possession of a vehicle legally brought into the State by a qualified person, on a temporary basis, the Officer should issue a verbal warning to the person who was granted TE and to the State resident, where possible, that they are in breach of VRT legislation and that any future similar occurrence may result in the seizure of the vehicle. See possession offence No. [1].</p>	S. 139(1)(f), Finance Act, 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[5] To be knowingly concerned with the evasion of VRT.</p> <p><i>(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).</i></p>	S. 139(5), Finance (No.2) Act, 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction and/or up to 6 months imprisonment (S. 139(5), F.A. 1992). • €12,695 on indictment or 3 times VRT and/or up to 5 years imprisonment. • Forfeiture of Vehicle (S. 139(6), F.A. 1992).
<p>[6] Possession of a vehicle on which its registration plates are not displayed or are not displayed in the prescribed manner.</p> <p>[Ref. In the Law: S. 131(6), F.A. 1992].</p>	S. 139(1)(b), Finance Act 1992.	€5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[7] Possession of a converted vehicle which has not been declared or declared but the additional VRT has not been paid.</p> <p>[Ref. In the Law: Contrary to S. 131(4) and 132(2), F.A. 1992].</p>	S. 139(3)(ee), Finance Act 1992 (as inserted by S. 82, F.A. 1998).	<ul style="list-style-type: none"> • €5,000 on summary conviction (S. 139(4), F.A. 1992). • Forfeiture of Vehicle (S. 139(6), F.A. 1992).
<p>[8] Delivery to an unauthorised person of an unregistered vehicle or a converted vehicle on which the additional VRT has not been paid.</p> <p>[Ref. In the Law: Contrary to S. 139(3)(f), F.A. 1992].</p>	S. 139(3)(f), Finance Act, 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S. 139(4), F.A. 1992). • Forfeiture of Vehicle (S. 139(6), F.A. 1992).

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p>[9] Display of false/switched registration plates.</p> <p>[Ref. In the Law: S.131(6), F.A. 1992].</p>	S. 139(1)(c), Finance Act, 1992.	€ 5,000 on summary conviction (S. 139(2), F.A. 1992).
[10] False/misleading declaration.	S. 139(1)(a), Finance Act, 1992.	€5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[11] Offences related to failure to comply with requests.</p> <p>a) <i>Obstruction offences arising in connection with revenue powers to stop vehicles, enter/search, seek information, seize and detain vehicles. Failure to give name/address is also an obstruction offence.</i></p>	<p>S. 123(b)&(c) F. A. 2001.</p> <p>S. 1078(2)(j) TCA 1997.</p>	<p>€5,000 on summary conviction (S. 124(2), F.A. 2001 as amended by S.77 F.A. 2008).</p> <p>€5,000 on summary conviction and/or up to 12 months imprisonment (S .1078(3)(a), TCA 1997). On indictment fine not exceeding €126,970 and/or up to 5 years imprisonment. (S.1078(3)(b), TCA 1997).</p>
OFFENCES COMMITTED SPECIFICALLY BY AUTHORISED PERSONS.		

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p>[Ref. In the Law: S.136(8), F.A. 1992. The conditions which must be complied with are in Art. 9, S.I. 437/92].</p> <p>[13] Use of an unregistered vehicle in a public place.</p>	S. 139(1)(bb), Finance Act, 1992.	€ 5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[14] Failure by an authorised person to:-</p> <ul style="list-style-type: none"> a) account for unregistered & converted vehicles; b) lodge returns of all unregistered vehicles received, stored, converted and disposed of; c) keep records. <p>[Ref. In the Law: As required by S.137 F.A. 1992 & Arts. 15, 17 & 18, S.I. 318/92].</p>	S. 139(3)(e), Finance Act, 1992.	<ul style="list-style-type: none"> • Normally, revocation of authorisation (following warning). • Otherwise, €5,000 on summary conviction (S. 139(4), F.A. 1992). • Forfeiture of Vehicle (S. 139(6), F.A. 1992).
OFFENCES ASSOCIATED WITH CERTIFICATES, DECLARATIONS ETC.		
[15] Issue or be in possession of a document purporting to be a certificate.	S. 139(3)(c) Finance Act, 1992.	<ul style="list-style-type: none"> • €5,000 on summary conviction (S. 139(4), F.A. 1992). • Forfeiture of Vehicle (S. 139(6), F.A. 1992).
[16] Interference with certificate.	S. 139(1)(d), Finance Act, 1992.	€ 5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[17] Failure by Distributor/Manufacturer to declare the OMSP.</p> <p>[Ref. In the Law: As required by S.133(2) F.A. 1992].</p>	S. 139(1)(e), Finance Act, 1992.	€5,000 on summary conviction (S. 139(2), F.A. 1992).
<p>[18] Offences which are not specifically covered in S. 139(1)(a)-(e).</p> <p><i>(Note: this is a “catch-all” provision)</i></p>	S. 139(1)(f), Finance Act, 1992.	€5,000 on summary conviction (S. 139(2), F.A. 1992).

OFFENCE.	OFFENCE SECTION.	PENALTY.
<u>OFFENCES INVOLVING FRAUDULENT REPAYMENT CLAIMS.</u>		
<p>[19] Fraudulent VRT Repayment Claims.</p> <p>Where a fraudulent repayment claim is detected, the question of proceedings being taken under S. 1078 Taxes Consolidation Act 1997 should be considered. There are two primary considerations which should be taken into account:-</p> <ul style="list-style-type: none"> ▪ did the applicant gain financially as a result of his actions? <i>For example, in the demonstration scheme, where a VRT repayment has been made, VAT is required to be paid on the VRT inclusive price when the vehicle is disposed of following demonstration. Otherwise, the person concerned gains financially.</i> ▪ Is there evidence of mens rea i.e. was the fraudulent repayment claim <u>knowingly</u> made? <p>Among the repayment schemes in operation at present are the following:</p> <p>1) <u>Demonstration Scheme:</u></p> <p>[Ref: the legal basis for the demo scheme is in S.134(15), F.A. 1992].</p> <p>2) <u>Disabled Drivers/Passengers Scheme:</u></p> <p>[Ref: the legal basis for the disabled drivers/passengers scheme is in S. 92, F.A. 1989].</p> <p>3) <u>Leasing scheme:</u></p> <p>[Ref: the legal basis for the leasing scheme is in S. 134(7), F.A. 1992].</p> <p>4) <u>Short term car hire scheme:</u></p> <p>[Ref: the legal basis for the STCH scheme is in S. 134(11), F.A. 1992].</p>	<p>S. 1078(2), Taxes Consolidation Act 1997. (Reproduced at Appendix 5)</p>	<ul style="list-style-type: none"> • €5,000 on summary conviction (which may be mitigated to not less than ¼) and/or up to 12 months imprisonment (S. 1078(3)(a), T.C.A. 1997) as amended by S. 138 F.A. 2008. • €126,970 on indictment and/or up to 5 years imprisonment (S. 1078(3)(b), T.C.A. 1997) <p><u>Notes:</u></p> <ol style="list-style-type: none"> 1. These schemes provide for repayments of tax up to certain limits but these are not deemed to be exemptions. Hence, the provisions of 139(3)(b) and the associated forfeiture provisions at 139(6) of the Finance Act 1992 are not applicable. 2. Under the Disabled Passengers Scheme, the residency rule may be waived in certain circumstances. Likewise, under the Disabled Drivers/Passengers Scheme, commercial use of the vehicle (i.e. in addition to its use in transporting the disabled person) may not necessarily disqualify in certain circumstances. Accordingly, enforcement action in relation to any aspect of these schemes should not be taken without first contacting the central repayments office Monaghan.

Under excise legislation, persons carrying on certain activities are required to hold and excise licence. 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, similarly, an amusement machine permit must be held for premises operating amusement machines. Trading without an excise licence is an offence and the following table sets out the main offences which arise. The table also indicates the legislative basis for each offence as well as the penalties applicable:-

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p><u>Intoxicating Liquor.</u></p> <p>It is an offence to make, manufacture, deal wholesale or sell by retail any intoxicating liquor without the appropriate licence.</p>	<p>S. 50, Finance (1909-1910) Act, 1910</p>	<p>€1,265 on summary conviction [S. 155(4), F.A. 1992].</p> <p>See Note next page</p>
<p><u>Mineral Oil Traders.</u></p> <p>It is an offence to offer for sale, keep for sale, sell or deliver, without a mineral oil traders licence, any mineral oil for use as a propellant.</p> <p>Furthermore, it is an offence to purchase or receive mineral oil for use as a propellant from a person who is not the holder of a mineral oil trader's licence (in practice, this would normally be intended to apply to commercial purchases).</p> <p>It is also an offence to fail to display the mineral oil trader's licence on the premises to which it relates but this is a relatively minor issue.</p>	<p>S. 102(1), F.A., 1999 as amended by S.94, F.A. 2003.</p>	<ul style="list-style-type: none"> ▪ €5,000 on summary conviction [S. 102(2), Finance Act 1999 as amended by S.82, F.A. 2006], S77 FA 2008 ▪ Forfeiture of the mineral oil in respect of which the offence was committed [S. 102(5), F.A. 1999]. Normally, this would only be used in cases of entrenched non-compliance by a trader.
<p><u>Auctioneers.</u></p> <p>It is an offence for any person to;</p> <ul style="list-style-type: none"> • act as an auctioneer • act as a house agent or • carry out an auction without a licence. 	<p>S. 6(3), Auctioneers and House Agents Act, 1947.</p>	<p>€630 on summary conviction. [S. 66(4), F.A. 1983]</p>

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p><u>Gaming Machines.</u></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 displayed on each machine. <p><i>Note: Enforcement action in relation to any failure to hold a Gaming Licence for a premises is a matter for the Gardai.</i></p>	S. 43(5)(a), Finance Act, 1975 as amended by S.71 F.A. 1993.	€1,265 on summary conviction for each unlicensed machine [S. 71, Finance Act 1993].
<p><u>Amusement Machines.</u></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; and • a current amusement machine licence display on each machine. • 	S. 126(1) & 126(2), Finance Act, 1992.	<ul style="list-style-type: none"> • €1,265 on summary conviction for each unlicensed machine. • €125 on summary conviction for no permit. [S. 126, F.A. 1992].
<p><u>Bookmakers.</u></p> <p>The offences concerning licences and premises are as follows:</p> <ul style="list-style-type: none"> • it is illegal for a person to act as a bookmaker unless s/he holds a licence; and • it is illegal for a person to accept a bet in any premises unless that premises is registered as a bookmaking office. 	S. 2(2), Betting Act, 1931 in relation to licences as amended by S. 82, F.A. 2006. Section 78(6)(a) of the Finance Act, 2002 in relation to premises.	<ul style="list-style-type: none"> • €5,000 on summary conviction for each instance of unlicensed trading. • €5,000 on summary conviction for each bet accepted in an unregistered premises. [S.78(6)(b), F.A. 2002 as amended by S. 82. F.A. 2006] S.77 F.A. 2008

NOTE:

The Gardai may seize spirits found in an unlicensed place (e.g. unlicensed pub) under Section 2 and 4 of the Spirits Act, 1854 as amended by the Sale of Spirits Act, 1855. An officer at HEO rank or higher may request the assistance of the Gardai, through their use of this power, to deal with aggravated situations relating to unlicensed publicans and liquor dealers.

The offences which can arise in relation to the evasion or non-payment of betting duty by bookmakers are set out in the following table:

OFFENCE.	OFFENCE SECTION.	PENALTY.
<ul style="list-style-type: none"> It is illegal for any person to fail to pay any betting duty within a prescribed period. 	S. 67(4), Finance Act 2002.	<ul style="list-style-type: none"> €5,000 on summary conviction. (S. 67(4), F.A.. 2002 as amended by S. 82, F.A. 2006).
<ul style="list-style-type: none"> It is illegal for any person to make any statement or representation in a return for betting duty which to his/her knowledge is false or misleading. 	S. 76, Finance Act 2002.	<ul style="list-style-type: none"> €5,000 on summary conviction. (S. 76, F.A. 2002 as amended by S. 82, F.A. 2006).
<ul style="list-style-type: none"> It is illegal for any person employed by or acting for a bookmaker in a registered premises to knowingly: <ol 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. 	S. 78(7), Finance Act, 2002.	<ul style="list-style-type: none"> €5,000 on summary conviction. (S. 78(7), F.A. 2002 as amended by S. 82, F.A. 2006).
<ul style="list-style-type: none"> It is illegal for any person to contravene or to fail to comply with any of the Articles of the Betting Duty Regulations, 2002 (S.I. No. 174 of 2002). 	S. 77(2), Finance Act, 2002.	<ul style="list-style-type: none"> €5,000 on summary conviction. (S. 77(2), F.A. 2002 as amended by S. 82, F.A. 2006).

Tax Stamps have been introduced as the means for charging excise duty on certain tobacco products. 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, of course, 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 stamps offences is contained in Section 78 of the Finance Act, 2005. The offences which arise in relation to tobacco tax stamps and the penalties which apply are detailed below.

OFFENCE.	OFFENCE SECTION.	PENALTY.
<p>1) <i>Inviting an offer to treat for (i.e. having on display)</i></p> <p>2) <i>Offering for sale</i></p> <p>3) <i>Keeping for sale or delivery</i></p> <p>4) <i>Being in the process of delivery tobacco products which do not have tax stamps affixed appropriate to the type and denomination of the pack concerned.</i></p> <p><u>Note:</u></p> <p><i>Offences involving tobacco tax stamps are offences under the law relating to excise. Accordingly, 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 may be seized under Section 141, Finance Act 2001, as amended.</i></p>	<p>S. 78(3), Finance Act, 2005.</p>	<ul style="list-style-type: none"> • €5,000 on summary conviction and/or up to 12 months imprisonment [S. 78 (5)(a), Finance Act, 2005, as amended by S. 82. F.A., 2006]. • €12,695 on indictment and/or up to 5 years imprisonment [S. 78(5) (b), Finance Act, 2005]. • 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. [S. 78 (7), Finance Act, 2005].

OFFENCE.	OFFENCE SECTION.	PENALTY.
<ul style="list-style-type: none"> ▪ <i>Counterfeiting, altering or making use of counterfeited/altered tax stamps.</i> ▪ <i>To be knowingly concerned in the holding, selling or dealing in counterfeited/altered tax stamps</i> 	S. 78(4), Finance Act, 2005.	<ul style="list-style-type: none"> • €5,000 on summary conviction and/or up to 12 months imprisonment [S. 78 (5) (a), Finance Act, 2005, as amended by S. 82. F.A., 2006]. • €12,695 on indictment and/or up to 5 years imprisonment [S. 78(5) (b), Finance Act, 2005]. • Forfeiture of the stamps [S. 78(7) of above Act].
<i>Resisting, obstructing or impeding an officer (or a member of the Garda Síochána) in the exercise of powers relating to tobacco tax stamps.</i>	S. 1078(2) (j) TCA 1997.	<p>€5,000 on summary conviction and/or up to 12 months imprisonment (S. 1078(3) (a), TCA 1997).</p> <p>Fine not exceeding €126,970 and/or up to 5 years imprisonment. (S.1078 (3) (b), TCA 1997).</p>
<i>Provision of false or misleading information or refusal to supply information reasonably required by an officer (or a Garda) in relation to tobacco tax stamps.</i>	S.123, F.A. 2001	€5,000 on summary conviction [S.124, F.A. 2001 as amended by S. 82, F.A. 2006].