

Criminal Justice (Theft and Fraud Offences) Act, 2001

Order to produce evidential material. **52.**—(1) This section applies to any offence under this Act which is punishable by imprisonment for a term of five years or by a more severe penalty.

(2) A judge of the District Court, on hearing evidence on oath given by a member of the Garda Síochána, may, if he or she is satisfied that—

- (a) the Garda Síochána are investigating an offence to which this section applies,
- (b) a person has possession or control of particular material or material of a particular description, and
- (c) there are reasonable grounds for suspecting that the material constitutes evidence of or relating to the commission of the offence,

order that the person shall—

- (i) produce the material to a member of the Garda Síochána for the member to take away, or
- (ii) give such a member access to it,

either immediately or within such period as the order may specify.

(3) Where the material consists of or includes information contained in a computer, the order shall have effect as an order to produce the information, or to give access to it, in a form in which it is visible and legible and in which it can be taken away.

(4) An order under this section—

- (a) in so far as it may empower a member of the Garda Síochána to take away a document, or to be given access to it, shall also have effect as an order empowering the member to take away a copy of the document (and for that purpose the member may, if necessary, make a copy of the document),
- (b) shall not confer any right to production of, or access to, any document subject to legal privilege, and
- (c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(5) Any material taken away by a member of the Garda Síochána, under this section may be retained by

the member for use as evidence in any criminal proceedings.

(6) (a) Information contained in a document which was produced to a member of the Garda Síochána, or to which such a member was given access, in accordance with an order under this section shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible unless the information—

(i) is privileged from disclosure in such proceedings,

(ii) was supplied by a person who would not be compellable to give evidence at the instance of the prosecution,

(iii) was compiled for the purposes or in contemplation of any—

(I) criminal investigation,

(II) investigation or inquiry carried out pursuant to or under any enactment,

(III) civil or criminal proceedings, or

(IV) proceedings of a disciplinary nature,

or unless the requirements of the provisions mentioned in *paragraph (b)* are not complied with.

(b) References in sections 7 (notice of documentary evidence to be served on accused), 8 (admission and weight of documentary evidence) and 9 (admissibility of evidence as to credibility of supplier of information) of the [Criminal Evidence Act, 1992](#), to a document or information contained in it shall be construed as including references to a document mentioned in *paragraph (a)* and the information contained in it, and those provisions shall have effect accordingly with any necessary modifications.

(c) The [Criminal Procedure Act, 1967](#), is amended both in section 6(1)(e) (as amended by [section 10](#) of the [Criminal Evidence Act, 1992](#)) and in section 11 (as so amended) by the insertion, after “1992”, of “or [section 52 \(6\)\(b\)](#) of the *Criminal Justice (Theft and Fraud Offences) Act, 2001*,”.

(7) A judge of the District Court may, on the application of any person to whom an order under this section relates or a member of the Garda Síochána, vary or discharge the order.

(8) A person who without reasonable excuse fails or refuses to comply with an order under this section is guilty of an offence and liable on summary conviction to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both.