

Criminal Assets Bureau

Annual Report 2005

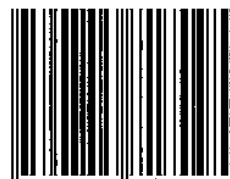


Criminal Assets Bureau

Annual Report 2005

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AN GARDA SÍOCHÁNA

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Web site: www.garda.ie

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Date:

Mr. Michael McDowell, TD
Minister for Justice, Equality & Law Reform
94 St. Stephen's Green
Dublin 2

Dear Minister

Pursuant to Section 21 of the Criminal Assets Bureau Act, 1996, I am pleased to present to you the 2005 Annual Report of the Criminal Assets Bureau.

The Bureau continues to discharge its statutory functions in an effective and efficient manner to deny persons engaged in criminal activity the proceeds of their crimes. The enactment of the Proceeds of Crime (Amendment) Act, 2005, will further enhance the operation of the Bureau.

During 2005, the Criminal Assets Bureau, representing Ireland, held the Presidency of the Camden Assets Recovery Inter-Agency Network (CARIN). This is an informal international network of law enforcement and judicial agencies engaged in asset recovery which aims to improve the effectiveness of cross-border co-operation in this area.

The Bureau in accordance with its statutory remit also assisted in investigations being carried out arising from the Northern Bank Robbery in Belfast in December, 2004.

Both nationally and internationally, the Criminal Assets Bureau continues to demonstrate the value of a multi-agency approach in the fight against crime.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Noel Conroy'.

NOEL CONROY
COMMISSIONER OF
AN GARDA SÍOCHÁNA

May, 2006

Criminal Assets Bureau

Any reply to this correspondence
should be addressed to:

*Chief Bureau Officer
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Harcourt Square
Dublin 2*



And the following number quoted:-

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Commissioner Noel Conroy
An Garda Síochána
Phoenix Park
Dublin 8

Dear Commissioner,

The tenth annual report of the Criminal Assets Bureau for the year 2005 is submitted to you herewith for onward transmission to the Minister for Justice, Equality & Law Reform pursuant to section 21 of the Criminal Assets Bureau Act 1996.

The Bureau continued to pursue its statutory remit in 2005 by applying, wherever possible, the proceeds of crime, revenue and social welfare legislation to suspected proceeds of criminal conduct. The Bureau forwarded to the Central Exchequer in excess of €18.5 million. For operational effectiveness and statutory confidentiality reasons the Bureau is required to keep specific details of many of its actions confidential.

The Proceeds of Crime (Amendment) Act 2005 was enacted in February 2005 and the amending and additional provisions of this legislation are welcomed.

I wish to acknowledge the support of officers of the Garda Síochána, the Revenue Commissioners, the Department of Social and Family Affairs and other state departments and agencies during the year enabling the Bureau to meet its statutory objectives.

The Bureau continued to liaise with foreign law enforcement agencies and was pleased to host an international conference which examined alternative strategies to deny or deprive persons of the benefit of the proceeds of criminal activity. The Bureau held the presidency of the CARIN network, an informal international network of law enforcement

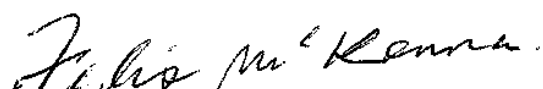
and judicial agencies engaged in asset recovery and encouraged further co-operation in this field.

I wish to express my appreciation for the excellent service provided by the legal staff from the Chief State Solicitor's Office and the counsel instructed by them.

The Bureau continued to receive support and assistance from the financial institutions, accountancy bodies and the public throughout 2005, which is of great value to the operation of the Bureau.

I would like to record my thanks for the dedicated and professional work of all the officers and staff of the Bureau during what was a very active year.

Yours sincerely,



Detective Chief Superintendent
F. J. McKENNA
Chief Bureau Officer

2nd May 2006

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**Report on the Activities of the
Criminal Assets Bureau for the year
ending 31 December 2005**



1

Introduction

Criminal Assets Bureau
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1 *Introduction*



- 1.1 This is the tenth annual report of the activities of the Criminal Assets Bureau (hereinafter referred to as the Bureau) and covers the period 1 January 2005 to 31 December 2005 inclusive.
- 1.2 The Bureau was established in 1996 by the Criminal Assets Bureau Act 1996 (hereinafter referred to as "the Act"). The Act was amended by the Proceeds of Crime (Amendment) Act 2005. The relevant provisions of the 2005 Act are described at Chapter 5 of this report. Sections 4 and 5 of the Act set out the statutory objectives and functions of the Bureau and these sections are attached at appendix 1 of this report.
- 1.3 This report is prepared pursuant to Section 21 of the Act which requires the Bureau to present a report, through the Commissioner of the Garda Síochána, to the Minister for Justice, Equality & Law Reform, of its activities during the year.
- 1.4 All monetary amounts referred to in this report are in Euro unless otherwise stated.

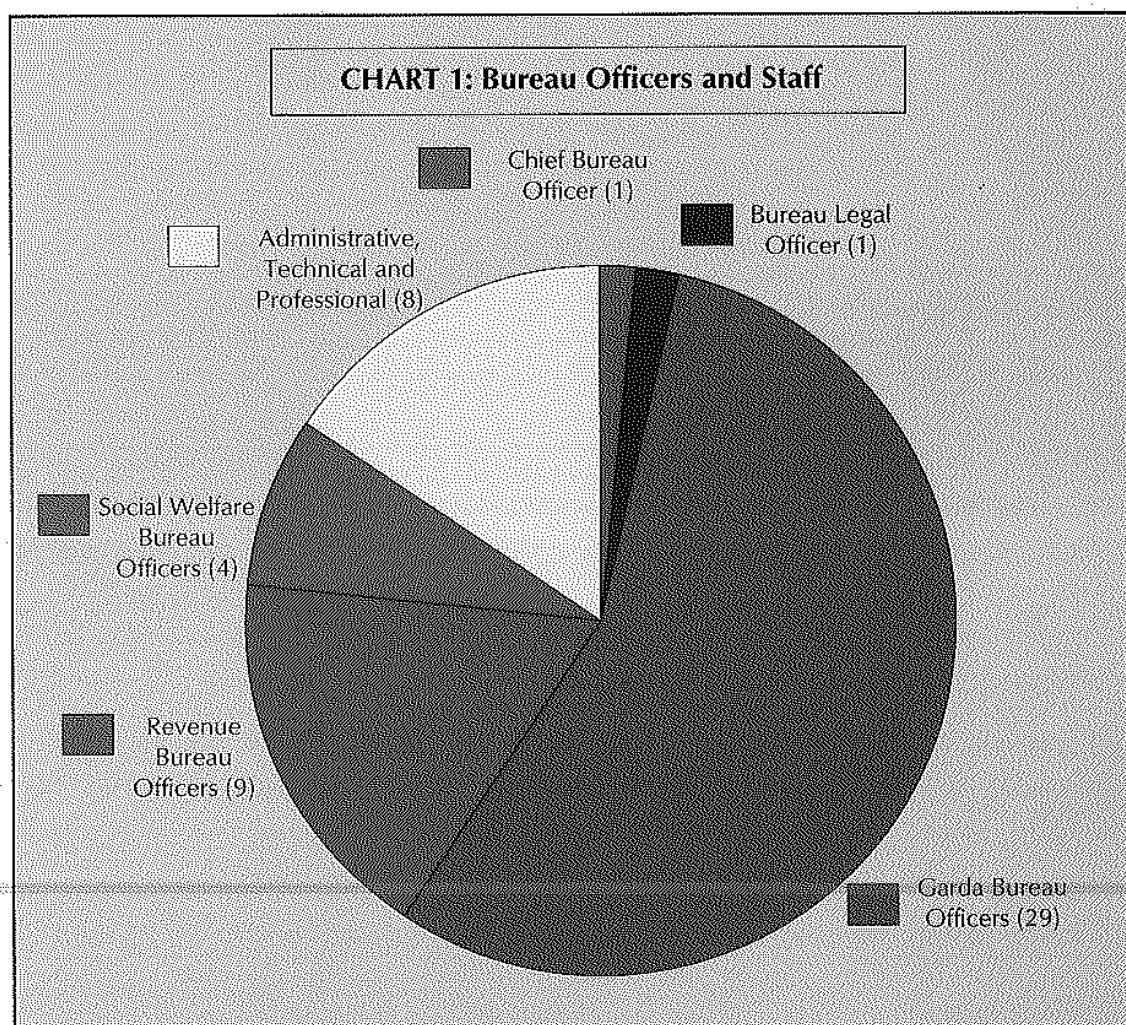
2

Personnel

Criminal Assets Bureau
2005
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2 Personnel

- 2.1 The Bureau is staffed by officers from the Garda Síochána, the Revenue Commissioners, the Department of Social and Family Affairs, the Department of Justice, Equality and Law Reform and the Bureau Legal Officer who is appointed to the Bureau under Section 9 of the Act.
- 2.2 The Chief State Solicitor provided one Principal Solicitor, one Assistant Solicitor, one Legal Executive and two Clerical Officers to supply the necessary legal services to the Bureau.
- 2.3 The total staff in the Bureau as of 31 December 2005 was 52 and the breakdown of this number is shown in Chart 1.



- 2.4. Approval was obtained from the Department of Finance and the Department of Justice, Equality and Law Reform for the recruitment of a financial crime analyst and an additional forensic accountant to the Bureau and the selection process is continuing.
- 2.5. Approval was received from the Department of Finance and the Revenue Commissioners for the secondment of an additional revenue official to the Bureau.
- 2.6. Five additional Garda staff were provided to the Bureau on a temporary basis in 2005 to assist in investigations being conducted pursuant to the statutory remit of the Bureau arising from the Northern Bank robbery in Belfast in December 2004.
- 2.7. The Divisional Criminal Assets Profiler initiative (as outlined in the 2004 Criminal Assets Bureau Annual Report) continued throughout 2005 with the full complement of 25 divisional profilers being maintained and receiving further training.
- 2.8. Bureau staff liaised and worked with these profilers in each Garda Division in implementing the statutory remit of the Bureau and in ensuring wherever possible that assets deriving from criminal conduct (in particular drug related crime) were subjected to post-conviction confiscation pursuant to the Criminal Justice Act 1994, civil restraint pursuant to the Proceeds of Crime Act 1996 and Revenue and Social Welfare legislation.

3

Finance

Criminal Assets Bureau
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3 Finance



- 3.1 During the course of the year the Bureau expended monies provided to it through the Oireachtas by the Minister for Justice, Equality and Law Reform in order for it to carry out its statutory functions and to achieve its statutory objectives.
- 3.2 The Bureau expended €5.246 million as broken down in the following Table 1.

Table 1:
Accounts for the period 1 January 2005 to 31 December 2005

	€	€
Monies provided by the Oireachtas		5,246,000
Expenditure		
Pay	3,967,000	
Non-Pay	1,279,000	
Total	5,246,000	5,246,000

- 3.3 The terms of the Prompt Payment of Accounts Act 1997 were fully complied with by the Bureau.

4

Actions by the Bureau

Criminal Assets Bureau
2005
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4 *Actions by the Bureau*



- 4.1 During the course of the year the Bureau took a number of actions in pursuit of its statutory objectives and in execution of its statutory functions in targeting the proceeds of criminal conduct. The information and statistics furnished in this report relate to cases in which the Bureau took action, through the courts or otherwise, in pursuit of this statutory remit.
- 4.2 These actions covered a wide range of Garda, Revenue and Social Welfare activities and also included actions specific to the work of the Bureau.
- 4.3 Court applications were made by the Bureau, pursuant to Sections 14 and 14A of the Act, Section 63 of the Criminal Justice Act 1994 and Section 7 of the Bankers Books Evidence Act 1879, to obtain warrants and orders which were used by the Bureau in its investigations. The numbers of such warrants and orders are set out in Table 2.

Table 2:
Numbers of warrants and orders

	Number
Search Warrants obtained under Section 14 of the Act	96
Orders obtained under Section 14A of the Act	98
Orders obtained under Section 63 of the Criminal Justice Act 1994	55
Orders under Section 7 of the Bankers Books Evidence Act	3

- 4.4 A substantial part of the work of the Bureau is by way of proceedings in the High Court. During 2005 the Bureau initiated a number of actions under the Proceeds of Crime Act 1996 and other legislation and progressed other actions which had carried over from previous years.

Proceeds of Crime Actions

- 4.5 The Chief Bureau Officer may make an application to the High Court under Section 2 of the Proceeds of Crime Act 1996 seeking an interim order which will prohibit dealing with property which can be shown, on the civil standard of proof, to be the proceeds of crime and which has a value of not less than €13,000.
- 4.6 Subsequent to a Section 2 order being granted, the Chief Bureau Officer must, to keep the prohibition in place, apply within 21 days for an order under Section 3 of the same Act. If such an application is successful the High Court makes an interlocutory order, which in effect freezes the property until further notice, unless the court is satisfied that all or part of the property is not the proceeds of crime.
- 4.7 A receiver may be appointed by the court under Section 7 of the same Act to preserve or dispose of property which is frozen under Section 2 or Section 3 orders. In 2005 the Bureau obtained 13 receivership orders and in all cases the receiver appointed by the court was the Bureau Legal Officer. These cases involved money, houses and motor vehicles. In some receivership cases the High Court made orders for possession and sale by the receiver.
- 4.8 Five houses and seven cars were sold in Criminal Assets Bureau receivership sales under court order. The houses included a substantial Dublin property, formerly in the possession of the late Martin Cahill known as "the General", and a property in Limerick taken from a figure engaged in criminal conduct there.
- 4.9 Section 4 of the Proceeds of Crime Act 1996 provides for the making of 'disposal orders' whereby the High Court may make an order transferring assets, frozen under a Section 3 order for seven years, to the Minister for Finance for the benefit of the Central Fund. The Proceeds of Crime (Amendment) Act 2005 made provision for the obtaining of a 'Section 4A consent disposal order' whereby the High Court may make a similar order on consent in cases where the Section 3 order is in existence for less than seven years. The Bureau obtained a total of 13 orders under the provisions of Sections 4 and 4A.

- 4.10 The numbers of orders obtained under Sections 2, 3, 4 (including six Section 4A orders) and 7 of the Proceeds of Crime Act 1996 are shown in Table 3.

Table 3:
Orders obtained under the Proceeds of Crime Act 1996

	No. of Defendants	No. of Orders	Amount		
			€	Stg£	US \$
Interim Orders under Section 2	19	10	5,860,335.00	Nil	314,619.54
Interlocutory Orders under Section 3	14	11	1,200,525.57	26,760.00	130,000.00
Disposal Orders under Section 4 and 4A	21	13	*2,002,738.41	N/A	N/A
Receivership Orders under Section 7	23	13	5,180,485.00	21,040.00	130,000.00

*This figure includes sums converted from other currencies.

- 4.11 Of the €2,002,738.41 referred to in Table 3, €1,984,088.41 was paid over to the Minister for Finance. The remaining payment of €18,650 had not been paid over at the end of the year.
- 4.12 There were payments by the receiver (amounting to Sterling £926,204.34 and US \$754,406.44) in two cases by order of the High Court under Section 3(3) of the Proceeds of Crime Act 1996. These payments were made to persons (representing victims of a fraud in the United States of America) who claimed ownership of property which was the subject of Section 3 orders in 2002.
- 4.13 In accordance with High Court directions, following on settlements, the receiver made payments totalling €472,916.50 out of receivership funds to parties to proceedings including payments in respect of legal costs and expenses. In two cases the receiver made payments to the Minister for Social and Family Affairs totalling €104,165.97.
- 4.14 Additionally the sum of €24,850 was paid over to the Minister for Finance with the consent of the party from whom it had been seized after the abandonment of a Police Property application in the District Court.
- 4.15 The following Table 4 sets out the net amounts realised under receivership orders for possession and sale.

Table 4:
Amounts realised by Receiverships

		Value		
		€	Stg£	US\$
Receiverships		1,373,846	21,040	Nil
Interest		148,282	31,792	1,642
Total		1,522,128	52,832	1,642

- 4.16 The cumulative value of amounts realised (including interest earned annually) from receiverships obtained since the establishment of the Bureau in 1996 is set out at Appendix 2.

Revenue Actions

- 4.17 The Bureau is empowered under the Act to apply, where appropriate, the relevant powers of the Taxes Acts to the profits or gains derived from criminal conduct and suspected criminal conduct. The application of these powers enables the Bureau to carry out its statutory remit and is an effective means of depriving those engaged in criminal conduct and suspected criminal conduct, of such profits or gains.
- 4.18 The provisions of the Disclosure of Information for Taxation and Other Purposes Act 1996 were used extensively during the year in providing for the transfer of information between the Revenue Commissioners and the Bureau.
- 4.19 Following investigations into the financial affairs of those engaged in criminal conduct, or suspected criminal conduct, the Bureau applied the provisions of the Taxes Acts to a number of individuals and companies. Many investigations were concluded by agreement providing for the payment of tax and interest and in some cases penalties. In some of these cases the terms of the agreement provided for the disposal of assets.
- 4.20 Revenue Bureau Officers raised assessments to tax on twenty individuals and two companies as a result of investigations by the Bureau. Of these, proper appeal notices were received in seven cases and five others had their appeal applications refused due to failure to comply with the relevant provisions of the Taxes Acts. Four of these individuals appealed the refusal to admit the applications for an appeal to the Appeal Commissioners. In two of these cases the Appeal Commissioners upheld the inspector's decision. The other two appeals were withdrawn by the appellants.

- 4.21 The Bureau rigorously applied the enforcement procedures of the Taxes Acts (including the use of attachment orders) against the financial assets of tax defaulters and other High Court recovery proceedings in the pursuit of taxes due.
- 4.22 The following Tables 5 to 10 inclusive give details of Revenue actions by the Bureau, including the amounts of taxes assessed, demanded and collected or otherwise recovered.

**Table 5:
Tax assessed**

	€
Income Tax	9,875,571.41
Value Added Tax	3,291,522.06
Capital Gains Tax	197,067.48
Employer's PAYE/PRSI	714,651.00
Total	14,078,811.95

**Table 6:
Tax and interest demanded**

	€
Income Tax	4,170,677.16
Value Added Tax	718,140.69
Total	4,888,817.85

**Table 7:
Tax and interest collected**

	€
Income Tax	12,030,064.31
Capital Gains Tax	2,419,387.34
Value Added Tax	1,784,951.38
Corporation Tax	100,000.00
Employer's PAYE/PRSI	42,195.68
Total	16,376,598.71

**Table 8:
High Court proceedings instituted for recovery of tax and interest**

	No. of cases	€
Total	6	3,452,441.14

Table 9:
Tax and interest for which judgement has been obtained in the High Court

	No. of cases	€
Total	2	990,781.98

Table 10:
Tax and interest recovered using Revenue powers of attachment

	No. of cases	€
Total	5	309,674.12

Social Welfare Actions

- 4.23 The Bureau also takes actions under the Social Welfare Acts in relation to persons engaged in criminal activity. Arising from investigations by Bureau Officers who are also officers of the Minister for Social and Family Affairs, a number of Social Welfare payments were terminated, resulting in savings to the Exchequer as set out at Table 11.

Table 11:
Saving under the Social Welfare Acts by Scheme Type

Scheme Type	€
Unemployment Assistance	20,477
One Parent Family Payment	159,632
Disability Allowance	35,945
Total	216,054

- 4.24 There were a number of appeals lodged with the Chief Appeals Officer against decisions made by Bureau Officers and two of these appeals were withdrawn.
- 4.25 In a number of other appeals the Chief Appeals Officer certified that the ordinary appeals procedure was inadequate to secure the effective processing of the appeals. The Chief Appeals Officer directed that these appellants submit their appeals to the Circuit Court. Two appeals were withdrawn ahead of the adjourned hearing while the two remaining appeals are listed for hearing in 2006.
- 4.26 The Bureau also identified overpayments of assistance resulting from determinations, details of which are set out in Table 12.

**Table 12:
Overpayments by Scheme Type**

Scheme Type	€
Unemployment Assistance	187,400
One Parent Family Payment	68,908
Disability Allowance	77,540
Child Benefit	4,448
Total	338,296

- 4.27 The recovery of monies as per Table 13 was effected by repayments, by instalments and by deductions from current entitlements. Monies were recovered in respect of two overpayments, as part of an agreement, which included the sale of property.

**Table 13:
Recovery of Monies by Scheme Type**

Scheme Type	€
Unemployment Assistance	203,198
One Parent Family Payment	44,851
Disability Allowance	45,899
Total	293,948

- 4.28 In two other cases, where summary summonses had issued for recovery of monies, liberty to extract judgement was granted. Legal proceedings were initiated against a claimant who continued to claim unemployment while working on a full-time basis.

Other Investigations

- 4.29 In the course of a complex investigation being conducted by the Bureau, evidence of suspected money laundering by a Dublin based manager of a Financial Institution of substantial monies was discovered. Following a criminal investigation conducted by officers of the Criminal Assets Bureau, jointly with the Money Laundering Investigation Unit attached to the Garda Bureau of Fraud Investigation a file on the matter was submitted to the office of the Director of Public Prosecutions. In 2005, on the directions of the Director of Public Prosecutions, the person was charged with 48 counts of money laundering, contrary to Section 31 of the Criminal Justice Act 1994. As of 31 December 2005 this person awaits trial on indictment.
- 4.30 In early 2005, following a number of searches conducted by the Bureau, an unlicensed firearm and ammunition was seized. On the directions of

the Director of Public Prosecutions a person was summarily prosecuted, pleaded guilty and paid €5,000 towards a Dublin based charity.

- 4.31 Section 13 of the Act provides for an offence of intimidating a Bureau Officer. Arising from threats made to a Social Welfare Bureau Officer, a person was summarily prosecuted on the directions of the Director of Public Prosecutions. Following a hearing before the Dublin Metropolitan District Court this person was found guilty and sentenced to three months imprisonment. This conviction was appealed to the Circuit Court by the defendant and as of 31 December 2005 this appeal was awaited.
- 4.32 A number of criminal prosecutions for breaches of the revenue legislation were progressed and one person who had pleaded guilty to offences before the Circuit Court in 2004 was sentenced to a term of six months imprisonment. Another person who had also pleaded guilty to similar offences in 2004 was fined €1,500 in the District Court. Two persons who also had been charged with revenue offences in 2003 and 2004 pleaded guilty on indictment to these offences and are awaiting sentence as of 31 December 2005. Two other persons who were charged with revenue offences in 2003 and 2004 are awaiting trial on indictment as of 31 December 2005.

5

Law and Case Law

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Enactment of the Proceeds of Crime (Amendment) Act 2005.

5.1 In February of 2005 the provisions of the Proceeds of Crime (Amendment) Act 2005 came into effect. This Act contains a series of amendments to the laws dealing with the proceeds of crime and will have a significant effect on the operation of the Criminal Assets Bureau.

5.2 Briefly these new provisions are as follows:—

- Court applications can now be brought in the corporate name of the Criminal Assets Bureau as an alternative to the personal name of a Garda Chief Superintendent or authorised Revenue Officer.
- Foreign criminality can now be taken into account in assessing whether assets are the proceeds of criminal conduct. This amendment follows from the “D” case reported on in the 2004 report. A large number of applications since the change in the law have referred to criminal conduct in the United States and the United Kingdom.
- If the parties and the High Court consent, assets can now be finally disposed of under the Proceeds of Crime Act without having to await the expiry of the seven year period. Five such consent orders were made since this change.
- New provisions were introduced for the proof in evidence of business records in applications under the Proceeds of Crime Act.
- A new provision was introduced allowing the Bureau to take proceedings for damages against a person or company who has been enriched by corrupt conduct, which phrase is defined by reference to offences under the Prevention of Corruption Acts, the Official Secrets Act and the Ethics in Public Office Act.
- A specific provision was introduced allowing the Criminal Assets Bureau to co-operate with agencies in other jurisdictions carrying out similar civil recovery functions. This provision will allow for closer co-operation between the Bureau and the Assets Recovery Agency in Northern Ireland, England and Wales and the Civil Recovery Unit in Scotland.

- The section relating to search warrants in Criminal Assets Bureau cases was amended to exclude material which is the subject of legal professional privilege.
- Provision was made for the granting of Production Orders in relation to Criminal Assets Bureau investigations.
- In addition the provisions for cash seizure by Gardaí and officers of the Revenue Commissioners, already found in the Criminal Justice Act 1994, were expanded to include cash linked to all criminal conduct not only to international drug trafficking.

Significant Court Decisions

- 5.3 There were a number of important judgments from the High and Supreme Courts in Criminal Assets Bureau related cases in 2005. On the revenue side there were two important cases.
- 5.4 In a case called *Sloan -v- Criminal Assets Bureau* in which a judgment was handed down by the President of the High Court on the 10th October 2005 the President dealt with the relationship between the anonymity provisions in Section 10 of the Act and the authority of Revenue Bureau Officers to issue tax assessments. In particular, the President decided that the tax powers during the enforcement phase can apply in Criminal Assets Bureau cases to assets which are not the proceeds of crime.
- 5.5 In a judicial review application called *Griffin -v- Appeal Commissioners and Revenue Commissioners*, judgment was delivered by Ms Justice Finlay Geoghegan in the High Court on the 18th March 2005. This dealt with the question as to whether a civil tax appeal should continue while the taxpayer is facing criminal proceedings for the failure to make tax returns. The taxpayer claimed that the privilege against self incrimination was breached if the civil tax appeal should go on in those circumstances forcing him to make his case in relation to his tax position. The court decided that the Appeal Commissioners should have entertained an application for an adjournment. The court also decided that the question as to whether evidence was of a self incriminating nature would have to be decided by the trial judge at the criminal trial to ensure that there was no breach of the defendant's rights under Article 38.1 of the Constitution.
- 5.6 In cases brought under the Proceeds of Crime Act the most significant judgment in 2005 was that from the Supreme Court on the 23rd February in two cases called "F" and "H", which dealt with the following issues;

- The Supreme Court refused to overturn its earlier decision in the same "F" litigation (now reported at [2003] IESC 6) that the Section 3 hearing is the main trial of the issues under dispute and that the later Section 4 application (if any) is a separate proceeding.
- Further, the court decided that the Proceeds of Crime Act would be "useless and unworkable" if particular assets had to be related to a particular crime, and this is not the meaning or effect of the Act.
- Further, the court decided that the Statute of Limitations 1957 does not apply to the Section 3 issue.
- Finally, the court decided that when an interim (Section 2) order is made, and is then followed by a Section 3 application within 21 days, that latter application must be *commenced* within the 21 days but need not be actually heard in court during that period, in order to maintain the prohibition on dealing with the assets.

- 5.7 In the case of McK -v- McD decided on the 4th July 2005 the President of the High Court decided that signed statements could be admitted in evidence in civil proceedings under the Proceeds of Crime Act, even though the statements were made while the person was being detained under a statutory provision, in this case section 2 of the Criminal Justice (Drug Trafficking) Act 1996. This case is under appeal as of the 31st of December 2005.
- 5.8 In a further case of McK -v- MB decided on 26th May 2005, the President of the High Court dealt with a number of issues about service of proceedings under the Proceeds of Crime Act, and followed his earlier decision in McK -v- M & Others ([2003] 3 I.R.1) that the court can make orders allowing for the service of such proceedings outside the jurisdiction.

6

International Developments

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6 *International Developments*



- 6.1 The Bureau participated in a number of international joint investigations in order to identify assets of persons involved in criminal conduct.
- 6.2 The Bureau received delegations from a number of jurisdictions and Bureau officers attended and made presentations at a number of international conferences.

Conference hosted by the Criminal Assets Bureau

- 6.3 An Garda Síochána through the Criminal Assets Bureau hosted an international conference entitled "Multi-Agency Alternative Strategies for Targeting the Proceeds of Criminal Activity:- A European Union Perspective" between the 24th and the 27th of April 2005 at Carrickmacross, Co. Monaghan. Funding was provided by the European Commission (under the AGIS Programme) and the Department of Justice, Equality and Law Reform.
- 6.4 The objectives of the conference were to examine and develop alternative strategies to deny or deprive persons of the benefit of the proceeds of criminal activity, including the use of the multi-agency approach and the application of national and international legal instruments. The Chief Bureau Officer and the Deputy Director of the Assets Recovery Agency made a joint presentation on examples of cross-border operations.
- 6.5 The conference was attended by delegates from law enforcement and judicial organisations in member states and applicant countries of the European Union as well as a number of other jurisdictions and organisations. This was in keeping with the theme of co-operation initiated in the Criminal Assets Bureau/Europol meeting in Dublin in 2002 from which the Camden Assets Recovery Inter-agency Network (CARIN) evolved.
- 6.6 The conference produced recommendations for consideration by law enforcement and judicial agencies in this field which were forwarded to the European Commission and disseminated to all participants.

Camden Assets Recovery Inter-agency Network (CARIN)

- 6.7 The Bureau, representing Ireland, held the presidency of the Camden Assets Recovery Inter-agency Network (CARIN), which had been officially launched in The Hague in September 2004. The Chief Bureau Officer chaired the steering committee meetings of CARIN and the annual plenary meeting.
- 6.8 CARIN continued in its aim to enhance the effectiveness of efforts in depriving criminals of their illicit profits, with particular reference to financial deprivation and to improve informal cross-border and inter-agency co-operation as well as information exchange within the European Union and beyond.
- 6.9 The CARIN network now includes law enforcement experts from 32 countries, states and jurisdictions together with Eurojust, Interpol and OLAF. These experts informally share intelligence, guidance and advices on criminal asset identification, freezing, seizure and confiscation in their respective jurisdictions. Europol holds the official permanent secretariat for the CARIN network.

Co-operation with UK Law enforcement authorities

- 6.10 The Bureau continued to target assets of persons and organisations engaged in cross-border criminal activity. This it did in consultation with other agencies including the Assets Recovery Agency based in Belfast and London, Her Majesty's Revenue and Customs, The Police Service of Northern Ireland, the Revenue Commissioners and the Garda Síochána.
- 6.11 The enactment of the Proceeds of Crime (Amendment) Act 2005 enabled the Bureau to co-operate with authorities abroad with functions related to the recovery of proceeds of crime. There has been increased contact at all levels between the Bureau and the Assets Recovery Agency in Belfast and London in joint investigations and co-ordinated operations.
- 6.12 The Bureau Legal Officer and the solicitors attached to the Bureau from the Chief State Solicitor's Office continued their contact with their counterparts in the Assets Recovery Agency in London and Belfast, and the Civil Recovery Unit in Edinburgh to share experiences and develop best practices.

7 Conclusion

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7 *Conclusion*



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- 7.1 The Bureau continued to pursue its statutory remit by applying the Proceeds of Crime, Revenue and Social Welfare legislation to the suspected proceeds of criminal conduct.
 - 7.2 The Bureau's functions and powers were augmented by the enactment of the provisions of the Proceeds of Crime (Amendment) Act 2005.
 - 7.3 The Bureau allocated considerable resources to work with the Garda Síochána and the Police Service of Northern Ireland in carrying out enquiries and investigations following the Northern Bank robbery in Belfast in December 2004 and the subsequent seizure of large sums of money in this jurisdiction.
 - 7.4 This is the tenth annual report of the Bureau and it again outlines the benefits of a multi agency, multi disciplinary and partnership approach to tackle the proceeds of criminal conduct.

Appendix 1

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Appendix 1



Objectives of the Bureau.

Section 4 of the Criminal Assets Bureau Act 1996 as amended by the Proceeds of Crime (Amendment) Act 2005

4.—Subject to the provisions of this Act, the objectives of the Bureau shall be—

- (a) the identification of the assets, wherever situated, of persons which derive or are suspected to derive, directly or indirectly, from criminal conduct,
- (b) the taking of appropriate action under the law to deprive or to deny those persons of the assets or the benefit of such assets, in whole or in part, as may be appropriate, and
- (c) the pursuit of any investigation or the doing of any other preparatory work in relation to any proceedings arising from the objectives mentioned in paragraphs (a) and (b).

Functions of the Bureau.

Section 5 of the Criminal Assets Bureau Act 1996 as amended by the Proceeds of Crime (Amendment) Act 2005 –

5.—(1) Without prejudice to the generality of section 4, the functions of the Bureau, operating through its bureau officers, shall be the taking of all necessary actions—

- (a) in accordance with Garda functions, for the purposes of, the confiscation, restraint of use, freezing, preservation or seizure of assets identified as deriving, or suspected to derive, directly or indirectly, from criminal conduct,
- (b) under the Revenue Acts or any provision of any other enactment, whether passed before or after the passing of this Act, which relates to revenue, to ensure that the proceeds of criminal conduct or suspected criminal conduct are subjected to tax and that the Revenue Acts, where appropriate, are fully applied in relation to such proceeds or activities, as the case may be,
- (c) under the Social Welfare Acts for the investigation and determination, as appropriate, of any claim for or in respect of benefit (within the meaning of section 204 of the Social Welfare (Consolidation) Act, 1993) by any person engaged in criminal conduct, and
- (d) at the request of the Minister for Social Welfare, to investigate and determine, as appropriate, any claim for or in respect of a benefit, within the meaning of section 204 of the Social Welfare (Consolidation) Act, 1993, where the Minister for Social Welfare certifies that there are reasonable grounds for believing that, in the case of a particular investigation, officers of the Minister for Social Welfare may be subject to threats or other forms of intimidation,

and such actions include, where appropriate, subject to any international agreement, cooperation with any police force, or any authority, being an authority with functions related to the recovery of proceeds of crime, a tax authority or social security authority, of a territory or state other than the State.

(2) In relation to the matters referred to in subsection (1), nothing in this Act shall be construed as affecting or restricting in any way—

- (a) the powers or duties of the Garda Síochána, the Revenue Commissioners or the Minister for Social Welfare, or
- (b) the functions of the Attorney General, the Director of Public Prosecutions or the Chief State Solicitor.

Appendix 2

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Appendix 2

Amounts realised by Receiverships as of 31 December 2005

Year	Number	Value		
		€	Stg£	US\$
1996/97	8	851,312	193,040	0
1998	5	410,718	104,743	77,678
1999	2	501,068	9,407	1,400
2000	6	1,613,075	11,787	2,433
2001	15	1,222,810	180,541	228,000
2002	9	1,369,425	1,997,649	5,422,553
2003	9	1,002,126	441,794	21,669
2004	15	922,868	71,164	7,895
2004	5	(973,622)	(1,128,460)	(4,837,184)
2005	13	1,522,128	52,832	1,642
2005	12	(1,745,064)	(1,066,205)	(848,162)
Total		6,996,844	868,292	86,181

The figures in brackets reflect payments by the receiver to Departments, victims or parties to proceedings under court direction.