

Criminal Justice (Theft and Fraud Offences)(Amendment) Bill 2020

Regulatory Impact Analysis

1. Summary RIA

Summary of Regulatory Impact Analysis (RIA)	
Department/Office: Department of Justice and Equality	Title of Legislation: Criminal Justice (Theft and Fraud Offences)(Amendment) Bill 2020
Stage: Publication of Bill	Date: January 2020
Related Publications:	
Available to view or download at: http://www.oireachtas.ie	
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<p>What policy objectives have been pursued?</p> <p>The transposition date for Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law was July 2019.</p> <p>What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the options below and indicate whether a preferred option has been identified.</p> <p>1. Do nothing.</p> <p>2. Introduce primary legislation to transpose the EU Directive.</p>	

Preferred Option:

Introduce primary legislation to transpose the EU Directive.

OPTIONS

	COSTS	BENEFITS	IMPACTS
1.	If the Directive is not transposed, the State will be open to infringement proceedings, with the imposition of significant financial penalties.	None.	Costs to the State from the possible imposition of fines and potential reputation damage.
2.	No direct costs. Minor indirect costs associated with preparing legislation and possible enforcement costs.	Transposition of EU Directive. The Commission had estimated a positive financial impact at EU level of €477.5 million as a result of the Directive. It is not possible to quantify what portion of that would result from Ireland's transposition of the instrument.	Compliance with Directive and avoidance of infringement proceedings.

2. Policy Context and Objectives

Directive 2017/1371 of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law was due to be transposed by 6 July 2019. It replaces an earlier EU Convention on the same matter.

The main changes brought about the Directive which require transposition are an extended definition of fraud against the Union's financial interests, a new offence of misappropriation, and other changes related to ancillary matters, such as extra-territorial application of the offences.

3. Identification and Description of Options

The following options were considered:

1. Do nothing.
2. Introduce primary legislation to transpose the EU Directive.

4. Analysis of Costs, Benefits and Impacts for ALL Options

Option 1. Do nothing

To do nothing would amount to a failure to transpose the EU Directive leaving the State open to enforcement proceedings and financial penalties.

Option 2. Introduce primary legislation to transpose the EU Directive.

This would allow the State to ensure that it meets its obligations under the EU Directive, avoiding infringement proceedings and contributing to the fight against fraud to the EU's financial interests.

5. Consultation

The Department has consulted with the Department of Finance and the Office of the Director of Public Prosecutions. Consultations were also carried out during the negotiation of the Directive.

6. Enforcement and compliance

The Bill creates new criminal offences and amends existing offences, which, like all criminal offences, are subject to investigation and prosecution by An Garda Síochána and the Director of Public Prosecutions.

In respect of the transposition of the Directive, the enforcement and compliance powers of the EU Commission will apply.

7. Review

The operation of the Bill will be kept under ongoing review in consultation with all stakeholders.

The Directive also requires the EU Commission, by 6 July 2021, to submit a report to the European Parliament and Council on the steps Member States have taken to ensure compliance with the Directive.

8. Publication

The Regulatory Impact Analysis will be published on the Department's website.

17 January 2020