



STATUTORY INSTRUMENTS.

S.I. No. 694 of 2023

EUROPEAN UNION (FINANCIAL AND COMPLIANCE CHECKS) (NO. 2)
REGULATIONS 2023

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I, PASCHAL DONOHOE, Minister for Public Expenditure, National Development Plan Delivery and Reform, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving full effect to Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Financial and Compliance Checks) (No.2) Regulations 2023.

Definitions

2. (1) In these Regulations—

“authorised officer” means a person appointed as an authorised officer under Regulation 3;

“Data Protection Acts 1988 to 2018” means the Data Protection Act 1988 (No. 25 of 1988), the Data Protection Act 2003 (No. 6 of 2003) and the Data Protection Act 2018 (No. 7 of 2018);

“EU Regulation” means Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021¹;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016²;

“records” includes any book, document or other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form; and includes material containing personal data within the meaning of the General Data Protection Regulation and the Data Protection Acts 1988 to 2018;

“European Funds encompassed by the European Union Common Provisions Regulation” means any resources disbursed from the funds encompassed by Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021¹ for the purpose of supporting social and economic development.

(2) A word or expression which is used in these Regulations and which is also used in the EU Regulation, unless the context otherwise requires, has the same meaning in these Regulations as it has in the EU Regulation.

¹ OJ L 231, 30.6.2021, p. 159–706

² OJ L 119, 4.5.2016, p. 1-88

Appointment of authorised officers

3. (1) For the purpose of ensuring compliance with the EU Regulation—
 - (a) the Minister for Public Expenditure, National Development Plan Delivery and Reform, or
 - (b) a Minister of the Government, in relation to any matter for which he or she has responsibility,

may appoint such and so many persons, as he or she thinks fit, to be authorised officers.

(2) An authorised officer appointed under paragraph (1) shall be furnished with a warrant on his or her appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if required, by any person affected, produce the warrant to that person.

Functions of authorised officers

4. (1) An authorised officer may, for the purpose of ensuring compliance with the EU Regulation—
 - (a) at all reasonable times enter any place (other than a private dwelling) at which the officer has reasonable grounds to believe records are kept relating to assistance from the European Funds encompassed by the European Union Common Provisions Regulation or any activities relating to such assistance,
 - (b) require the owner or any person employed at the place referred to in subparagraph (a) or in charge thereof to—
 - (i) give to the authorised officer his or her name, home address and occupation, and
 - (ii) provide to him or her any records which are in the person's power or control, and to give to the officer such information as he or she may reasonably require in regard to any entries in such records, and where such records are kept in a non-legible form to reproduce them in a permanent legible form,
 - (c) at such place referred to in subparagraph (a), inspect and take copies of or extracts from records (including in the case of information in non-legible form a copy or extract from such information in permanent legible form),
 - (d) inspect and copy or extract information from any data (including personal data) found or provided to the officer under this Regulation,
 - (e) require any person by whom or on whose behalf data equipment is or has been used on the premises or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use,

- (f) remove and retain any records for such period as may be reasonable for further examination,
- (g) secure for later inspection the place or part of any place in which such records are kept or there are reasonable grounds for believing such records are kept,
- (h) summon, at any reasonable time, any other person concerned in relation to assistance received from the European Funds encompassed by the European Union Common Provisions Regulation or any activities relating to such assistance to give to the officer any information which the officer may reasonably require concerning such assistance or activity or to produce to the officer any records which are in that person's power or control.

(2) An authorised officer may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when exercising any power conferred on an authorised officer under this Regulation.

Offence

5. (1) A person who—

- (a) obstructs or interferes with an authorised officer in the exercise of the officer's power under Regulation 4,
- (b) fails to comply with a request from an authorised officer under that Regulation, or
- (c) makes a statement to such officer which the person knows is false or misleading,

commits an offence and is liable on summary conviction to a Class A fine.

(2) Where an offence is committed under this Regulation by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

(4) An offence under this Regulation may be prosecuted by a Minister of the Government.

L.S.

GIVEN under the Official Seal of the Minister for Public Expenditure, National Development Plan Delivery and Reform,

20 December, 2023.

PASCHAL DONOHOE,
Minister for Public Expenditure, National Development Plan Delivery and Reform.

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