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*Number 21 of 2021*

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**Sale of Tickets (Cultural, Entertainment, Recreational and Sporting Events) Act  
2021**

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**SALE OF TICKETS (CULTURAL, ENTERTAINMENT, RECREATIONAL AND  
SPORTING EVENTS) ACT 2021**

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[2021.]

*Sale of Tickets (Cultural, Entertainment,  
Recreational and Sporting Events) Act 2021.*

[No. 21.]

ACTS REFERRED TO

Charities Act 2009 (No. 6)

Companies Act 2014 (No. 38)

Petty Sessions (Ireland) Act 1851 (14 & 15 Vict., c.93)





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*Number 21 of 2021*

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## **SALE OF TICKETS (CULTURAL, ENTERTAINMENT, RECREATIONAL AND SPORTING EVENTS) ACT 2021**

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An Act to promote fairer access to tickets for cultural, entertainment, recreational and sporting events by prohibiting the sale or advertising for sale of tickets or ticket packages for a price exceeding their original sale price for events taking place in designated venues and for designated events; to provide that a contract term shall be void insofar as it purports to exclude or limit the transfer or sale of a ticket or ticket package for a price not exceeding the original sale price; to provide for certain information requirements where a primary ticket seller sells or advertises for sale, or a secondary ticket seller advertises or offers for sale, tickets or ticket packages for events taking place in designated venues or for designated events; to give effect, in relation to ticket sales, to certain provisions of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000<sup>1</sup> on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market; and to provide for related matters.

[14th July, 2021]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title and commencement**

1. (1) This Act may be cited as the Sale of Tickets (Cultural, Entertainment, Recreational and Sporting Events) Act 2021.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and provisions.

##### **Interpretation**

2. In this Act—

<sup>1</sup> OJ No. L 178, 17.7.2000, p. 1.

“advertise” includes every form of advertisement, whether or not to the public, in a newspaper or other publication, on television or radio, by display of a notice, by electronic communication, including by means of the internet, or by any other means;

“amateur sports club” means a not for profit club which has as its main purpose the provision of facilities for, and the promotion of, participation in one or more sports but does not include a sports club or body organised on a county, provincial, regional or national basis;

“applicant” means—

- (a) an event applicant, or
- (b) a venue applicant;

“charitable organisation” means a registered charitable organisation within the meaning of section 2 of the Charities Act 2009;

“designated event” shall be construed in accordance with *section 9*;

“designated venue” shall be construed in accordance with *section 7*;

“event” means a cultural, entertainment, recreational or sporting event;

“event applicant” shall have the meaning assigned to it by *section 9*;

“event organiser”, in relation to an event, means a person who—

- (a) is responsible for staging, organising or managing the event, or
- (b) a person, acting for, or on behalf of, a person referred to in *paragraph (a)*;

“Minister” means the Minister for Enterprise, Trade and Employment;

“original sale price” means—

- (a) the price for which a ticket or ticket package was sold by a primary ticket seller and includes any additional charge or fee applying to the sale of the ticket or ticket package, or
- (b) the price for which an equivalent ticket or ticket package was on sale by a primary ticket seller where a secondary ticket seller obtained the ticket or ticket package other than through payment of the price;

“prescribe” means prescribed by regulations made by the Minister;

“primary ticket seller” means—

- (a) an event organiser,
- (b) a venue operator,
- (c) a person authorised to sell tickets or ticket packages on behalf of an event organiser or venue operator, or
- (d) a person acting for, or on behalf of, a person referred to in *paragraphs (a), (b) or (c)*,



but does not include a secondary ticket seller;

“relevant event” means an event taking place in a designated venue or a designated event;

“secondary ticket marketplace” means a website, online service, electronic application or print publication which provides a secondary ticket seller with a facility for the sale or advertising for sale of tickets or ticket packages and includes a marketplace that also provides a facility for the sale or supply, or advertising for sale or supply, of other goods or services;

“secondary ticket operator”, in relation to a secondary ticket marketplace, means—

- (a) a person who owns or manages the marketplace or is otherwise responsible for the operation of the marketplace, or
- (b) a person acting for, or on behalf of, a person referred to in *paragraph (a)*;

“secondary ticket seller” means a person who sells a ticket or ticket package that was originally sold by, or otherwise originally made available by or through, a primary ticket seller;

“sell” includes, in relation to a ticket or ticket package, to offer or expose the ticket or ticket package for sale or invite the making by a person of an offer to purchase the ticket or ticket package;

“ticket”, in relation to an event, means a card, pass, paper, document, device, whether in electronic form or otherwise, that on presentation entitles the holder to gain admission to the event;

“ticket package” means a package under which—

- (a) a ticket is sold or offered for sale at an inclusive price in combination with other goods or services, or
- (b) the purchase of other goods or services entitles the purchaser to buy a ticket for its original sale price or other specified price;

“venue applicant” shall have the meaning assigned to it by *section 7*;

“venue operator” means a person who—

- (a) owns or manages a venue or is otherwise responsible for the operation of the venue, or
- (b) a person, including an event organiser, acting for, or on behalf of, a person referred to in *paragraph (a)*.

### **Expenses**

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

**Regulations**

4. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Service of documents**

5. (1) A notice or other document that is required to be served on or given to a person under this Act shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:
- (a) by delivering it to the person;
  - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
  - (d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.
- (2) For the purpose of this section, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

**Application**

6. This Act applies to the sale, or the advertising for sale, of a ticket or ticket package on or after the day on which this section comes into operation.

## PART 2

SALE OF TICKETS FOR CULTURAL, ENTERTAINMENT, RECREATIONAL AND SPORTING EVENTS IN DESIGNATED  
VENUES AND FOR DESIGNATED EVENTS**Designation of certain venues**

7. (1) A venue operator (in this section and *section 8* also referred to as a “venue applicant”) may apply to the Minister to have one or more venues designated for the purposes of this Act if—
- (a) the venue has the capacity to hold 1,000 persons or more, and
  - (b) the venue applicant is of the reasonable opinion that the venue will hold events which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price.
- (2) An application under *subsection (1)* shall be in writing and in such form as the Minister may prescribe and shall include—
- (a) the name, address, e-mail address, telephone number and website address of the applicant,
  - (b) the address of the venue, or if the application concerns more than one venue, the address of each of those venues, the subject of the application,
  - (c) the capacity of the venue concerned or, if the application concerns more than one venue, the capacity of each of those venues, and
  - (d) a statement that the venue applicant is of the reasonable opinion that events taking place in the venue, or if the application concerns more than one venue, in each of the venues, may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price.
- (3) The Minister may prescribe a fee to accompany an application made under *subsection (1)* and different fees may be prescribed for different classes of application.
- (4) At any time after receiving an application and before determining that application, the Minister may by notice in writing require the venue applicant to provide additional information to him or her.
- (5) The Minister may—
- (a) designate a venue, the subject of an application under *subsection (1)*, where he or she is satisfied of the matters specified in that subsection, or
  - (b) subject to *section 8(2)*, refuse to designate a venue, the subject of an application under *subsection (1)*, where he or she is not so satisfied.
- (6) The Minister may, notwithstanding that an application in respect of a venue has not been made to him or her under *subsection (1)*, designate the venue if, after consultation with the venue operator, the Minister is satisfied—
- (a) that—

- (i) the venue (including a venue with a capacity to hold fewer than 1,000 persons) will hold events which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price, or
  - (ii) a designation under *subsection (5)(a)* cannot be made prior to the venue holding events which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price,
- and
- (b) that the designation of that venue would be in the public interest.
- (7) Where the Minister designates a venue under *subsection (5)(a)* or *(6)*, he or she shall notify the venue operator in writing of the designation.
- (8) A notification under *subsection (7)* shall include the following information:
- (a) the reason for the designation;
  - (b) subject to *subsection (9)*, the date on which the designation shall come into effect;
  - (c) that the venue operator may appeal the designation under *subsection (6)* in accordance with *section 13*.
- (9) A designation made by the Minister under *subsection (6)* shall come into effect upon the making of such designation, or on such later date as may be specified by the Minister in a notification under *subsection (7)*, and the bringing of an appeal against such designation under *section 13* shall not affect the operation of the designation.

### **Refusal or revocation of designation of certain venues**

8. (1) The Minister may revoke a designation made under *section 7* where—
- (a) in the case of a designation made under *section 7(5)*, he or she is no longer satisfied that there is a reasonable basis for the opinion of the venue applicant or venue operator that the venue, the subject of the designation concerned, has the capacity to hold 1,000 persons or more,
  - (b) in the case of a designation made under *section 7(5)*, he or she is no longer satisfied that there is a reasonable basis for the opinion of the venue applicant or venue operator that the venue, the subject of the designation concerned, will hold events which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price,
  - (c) in the case of a designation made under *section 7(6)*, he or she is no longer satisfied that the venue, the subject of the designation concerned, will hold events which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price, or

- (d) in the case of a designation made under *section 7(5)* or *section 7(6)*, as the case may be, the venue, the subject of the designation concerned, is no longer in operation or has ceased to hold events.
- (2) Where the Minister proposes—
  - (a) to refuse a designation under *section 7(5)(b)*, he or she shall notify the venue applicant in writing of the proposed refusal, or
  - (b) to revoke a designation under *subsection (1)*, he or she shall notify the venue operator in writing of the proposed revocation.
- (3) A notification under *subsection (2)* shall include details of the following:
  - (a) the proposal to refuse a designation under *section 7(5)(b)* or to revoke a designation under *subsection (1)* and the reason for it;
  - (b) in the case of a proposal to refuse a designation under *section 7(5)(b)*, that the venue applicant may instead make an application under *section 9* to have an event designated;
  - (c) that the venue applicant may make representations in accordance with *section 12* regarding such proposal to refuse a designation;
  - (d) that the venue operator may make representations in accordance with *section 12* regarding such proposal to revoke a designation;
  - (e) that if the venue operator does not make such representations, the revocation of a designation under *subsection (1)* shall come into operation 28 days from the date of the service of the notification;
  - (f) that the venue applicant or venue operator may make an appeal in accordance with *section 13*.

### **Designation of certain events**

9. (1) An event organiser or venue operator, (in this section and *section 10* also referred to as an “event applicant”) may apply to the Minister to have an event designated for the purposes of this Act (in this section referred to as the “designated event”) if, having regard to the nature of the event, the applicant is of the reasonable opinion that the event may give rise to the sale of tickets or ticket packages for that event by a secondary ticket seller for a price exceeding the original sale price.
- (2) An application may be made under *subsection (1)* for the designation of an event which takes place on an annual or other periodic basis in the same venue.
  - (3) An application under *subsection (1)* shall be in writing and in such form as the Minister may prescribe and shall include—
    - (a) the name, address, e-mail address, telephone number and website address of the event applicant,

- (b) details (including the proposed date or dates concerned) of the event and the address of the venue where the event, the subject of the application, will take place, and
  - (c) a statement that the event applicant is of the reasonable opinion that the event, the subject of the application, may give rise to the sale of tickets or ticket packages for that event by a secondary ticket seller for a price exceeding the original sale price.
- (4) The Minister may prescribe a fee to accompany an application made under *subsection (1)*.
- (5) At any time after receiving an application and before determining that application, the Minister may by notice in writing require the event applicant to provide additional information to him or her.
- (6) The Minister may—
- (a) designate an event which has been the subject of an application under *subsection (1)* where he or she is satisfied of the matters specified in that subsection, or
  - (b) subject to *section 10(1)*, refuse to designate an event which has been the subject of an application under *subsection (1)* where he or she is not so satisfied.
- (7) The Minister may notwithstanding that an application in respect of an event has not been made to him or her under *subsection (1)*, designate an event if, after consultation with the event organiser or venue operator, the Minister is satisfied, having regard to the nature of the event—
- (a) that—
    - (i) the event may give rise to the sale of tickets or ticket packages by a secondary ticket seller for that event for a price exceeding the original sale price, or
    - (ii) that a designation by the Minister under *subsection (6)(a)* cannot be made prior to the event which may give rise to the sale of tickets or ticket packages by a secondary ticket seller for a price exceeding the original sale price,
  - and
  - (b) that the designation of that event would be in the public interest.
- (8) Where the Minister designates an event under *subsection (6)(a)* or (7), he or she shall notify the event organiser or venue operator in writing of the designation.
- (9) A notification under *subsection (8)* shall include the following information:
- (a) the reason for the designation;
  - (b) subject to *subsection (10)*, the date on which the designation shall come into effect;
  - (c) that the event organiser or venue operator may appeal the designation under *subsection (7)* in accordance with *section 13*.

- (10) A designation made by the Minister under *subsection (7)* shall come into effect upon the making of such designation, or on such later date as may be specified by the Minister in a notification under *subsection (8)*, and the bringing of an appeal against such designation under *section 13* shall not affect the operation of the designation.

### **Refusal or revocation of designation of certain events**

- 10.** (1) The Minister may revoke a designation made under *section 9* where—
- (a) in the case of a designation made under *section 9(6)*, he or she is no longer satisfied that there is a reasonable basis for the opinion of the event applicant, event organiser or venue operator that the event, the subject of the designation concerned, may give rise to the sale of tickets or ticket packages by a secondary ticket seller for that event for a price exceeding the original sale price,
  - (b) in the case of a designation made under *section 9(7)*, he or she is no longer satisfied that the event, the subject of the designation concerned, may give rise to the sale of tickets or ticket packages for that event for a price exceeding the original sale price, or
  - (c) in the case of a designation made under *section 9(6)* or *section 9(7)*, as the case may be, he or she is not satisfied that the event, the subject of the application under *section 9(1)*, is the same as, or substantially similar to, that specified in the application for designation under *section 9(1)*, or designated under *section 9(7)*, as the case may be.
- (2) Where the Minister proposes—
- (a) to refuse a designation under *section 9(6)(b)*, he or she shall notify the event applicant in writing of the proposed refusal, or
  - (b) to revoke a designation under *subsection (1)*, he or she shall notify the event organiser or venue operator in writing of the proposed revocation.
- (3) A notification under *subsection (2)* shall include details of the following:
- (a) the proposal to refuse a designation under *section 9(6)(b)* or to revoke a designation under *subsection (1)* and the reason for it;
  - (b) that the event applicant may make representations in accordance with *section 12* regarding such proposal to refuse a designation;
  - (c) that the event organiser or venue operator may make representations in accordance with *section 12* regarding such proposal to revoke a designation;
  - (d) that if the event organiser or venue operator does not make such representations, the revocation of a designation under *subsection (1)* shall come into operation 28 days from the date of the service of the notification;
  - (e) that the event applicant, event organiser or venue operator may make an appeal in accordance with *section 13*.

**Notification of designation**

- 11.** (1) Where the Minister makes or revokes a designation under *section 7* or *9* or makes or revokes a designation under *section 8* or *10*, he or she shall—
- (a) cause notification of the making or revocation of such designation to be published in *Iris Oifigiúil*, and
  - (b) make publicly available the information specified in *subsection (2)*, in such manner as he or she may consider appropriate.
- (2) The information which is required to be published or made available under *subsection (1)(a)* or *(1)(b)* shall contain the following:
- (a) that a designation of a venue or of an event has been made or revoked;
  - (b) the name and location of the venue, or where the designation is made under *section 9*, the name of the event and the location of the venue where it is being held;
  - (c) the date from which the designation or revocation shall have effect.

**Representations**

- 12.** (1) An applicant, venue operator or event organiser notified of a proposal to refuse or revoke a designation under *sections 8(2)* or *10(2)* may, within 14 days, make representations to the Minister about such proposal.
- (2) The Minister shall have regard to any representations made to him or her under *subsection (1)* in deciding whether to proceed with the proposed refusal or revocation of the designation concerned and shall notify the applicant, venue operator or event organiser in writing of his or her decision.
- (3) Where an applicant, venue operator or event organiser makes representations to the Minister in accordance with *subsection (1)* and unless an appeal is brought under *section 13*, revocation of a designation under *section 8(2)* or *10(2)* shall come into operation 28 days from the date of service of the notification referred to in *subsection (2)*.

**Appeals**

- 13.** (1) An applicant, venue operator or event organiser—
- (a) whose application for designation was refused by the Minister under *section 7(5)(b)* or *9(6)(b)*,
  - (b) whose designation was revoked by the Minister under *section 8(1)* or *10(1)*, or
  - (c) whose venue has been designated by the Minister under *section 7(6)* or *9(7)*,
- may appeal such refusal, revocation or designation, as the case may be, to the District Court not later than 28 days from the date of the service of the notification under *section 8(2)*, *10(2)*, *12(2)*, *7(7)* or *9(8)*, as the case may be.



- (2) Where an applicant, venue operator or event organiser makes an appeal under *subsection (1)*, he or she shall at the same time notify the Minister in writing of the making of the appeal.
- (3) An appeal under *subsection (1)* in relation to the designation of a venue under *section 7* shall be to a judge of the District Court for the time being assigned to the district court district within which the venue, in respect of which the application under *section 7(1)* or the designation under *section 7(6)* is made, is located.
- (4) An appeal under *subsection (1)* in relation to the designation of an event under *section 9* shall be to a judge of the District Court for the time being assigned to the district court district within which the event, in respect of which the application under *section 9(1)* or the designation under *section 9(7)* is made, is being held.
- (5) On the hearing of an appeal under *subsection (1)*, in relation to an application for the designation of a venue under *section 7*, the judge of the District Court may make an order—
  - (a) confirming the refusal of the application for designation by the Minister under *section 7(5)(b)* on the grounds that the requirements of *subsection (1)* of that section have not been satisfied,
  - (b) allowing the appeal against the refusal of the application for designation by the Minister under *section 7(5)(b)* and directing the Minister to designate the venue, the subject of the appeal, on the grounds that the requirements of *subsection (1)* of that section have been satisfied,
  - (c) confirming the revocation of the designation by the Minister under *section 8(1)* on the grounds that the requirements of *subsection (1)* of that section have been satisfied,
  - (d) allowing the appeal against the revocation of designation under *section 8(1)* and directing the Minister to reinstate the designation of the venue, the subject of the appeal, on the grounds that the requirements of *section 7(1)* are still met, or
  - (e) allowing the appeal and revoking the designation made by the Minister under *section 7(6)* on the grounds that the requirements of *subsection (6)* of that section have not been satisfied.
- (6) On the hearing of an appeal under *subsection (1)* in relation to an application for the designation of an event under *section 9*, the judge of the District Court may make an order—
  - (a) confirming the refusal of the application for designation by the Minister under *section 9(6)(b)* on the grounds that the requirements of *subsection (1)* of that section have not been satisfied,
  - (b) allowing the appeal against the refusal for designation by the Minister under *section 9(6)(b)* and directing the Minister to designate the event, the subject of the appeal, on the grounds that the requirements of *subsection (1)* of that section have been satisfied,

- (c) confirming the revocation of the designation by the Minister under *section 10(1)* on the grounds that the requirements of *subsection (1)* of that section have been satisfied,
  - (d) allowing the appeal against the revocation of designation under *section 10(1)* and directing the Minister to reinstate the designation of the event, the subject of the appeal, on the grounds that the requirements of *section 9(1)* are still met, or
  - (e) allowing the appeal and revoking the designation made by the Minister under *section 9(7)* on the grounds that the requirements of *subsection (7)* of that section have not been satisfied.
- (7) The decision of the District Court under this section on a question of fact shall be final.

### **Register**

14. (1) The Minister shall establish and maintain a register of designated venues and designated events.
- (2) The Minister shall publish the register on the internet or in such other manner as he or she considers appropriate.

## PART 3

### PROHIBITION ON SALE OF TICKETS FOR CULTURAL, ENTERTAINMENT, RECREATIONAL AND SPORTING EVENTS AND RELATED INFORMATION REQUIREMENTS

#### **Prohibition on sale or advertisement for sale of ticket or ticket package above original sale price**

15. (1) Subject to *section 18*, a secondary ticket seller shall not sell a ticket or ticket package for a relevant event for a price exceeding the original sale price.
- (2) Subject to *section 18*, a secondary ticket seller shall not advertise for sale, or cause the advertisement for sale of, a ticket or ticket package for a relevant event for a price exceeding the original sale price.
- (3) A secondary ticket seller who contravenes *subsection (1)* or *(2)* shall be guilty of an offence.

#### **Information required when primary ticket seller sells or advertises for sale ticket or ticket package**

16. (1) Subject to *section 18*, a primary ticket seller shall not sell, or advertise for sale, a ticket or ticket package for a relevant event without providing the information specified in *subsection (2)* in accordance with *subsection (3)*.
- (2) The information referred to in *subsection (1)* is as follows:

- (a) that the sale of the ticket or ticket package is for a relevant event;
- (b) that the sale of the ticket or ticket package for that event for a price exceeding the original sale price is prohibited unless—
  - (i) the proceeds of that sale are used only for the purpose of funding the activities of a charitable organisation or amateur sports club, and
  - (ii) the sale of the ticket or ticket package for the purpose referred to in *subparagraph (i)* has been approved by an event organiser.
- (3) The information referred to in *subsection (1)* shall be provided—
  - (a) in any advertisement for the sale of the ticket or ticket package,
  - (b) on the face of the ticket where the format of the ticket permits the information to be provided in this manner, or
  - (c) on a durable medium supplied with the ticket or ticket package where the format of the ticket does not permit the information to be provided in the manner specified in *paragraph (b)*.
- (4) A primary ticket seller who contravenes *subsection (1)* shall be guilty of an offence.
- (5) In this section, “durable medium” means any medium on which information is provided and stored, including paper and e-mail, that—
  - (a) renders the information accessible for future reference for a period of time adequate for the purposes of the information, and
  - (b) allows the unchanged reproduction of the information.

**Information required when secondary ticket seller advertises or offers for sale ticket or ticket package**

17. (1) Subject to *section 18*, a secondary ticket seller shall not advertise or offer for sale on a secondary ticket marketplace, a ticket or ticket package for a relevant event unless the advertisement includes the information specified in *subsection (3)*.
- (2) Subject to *section 18*, a secondary ticket operator shall ensure that a ticket or ticket package for a relevant event is not advertised or offered for sale on the operator’s secondary ticket marketplace without the secondary ticket seller providing the information specified in *subsection (3)* in the advertisement.
- (3) The information referred to in *subsections (1)* and *(2)* is as follows:
  - (a) the original sale price of the ticket or the ticket package;
  - (b) the information necessary to enable the identification of the particular seat or standing area to which the ticket or ticket package entitles the ticket holder to gain admission, including where applicable, the seat, row and block number and any clearly identifiable unique ticket number.
- (4) A secondary ticket seller who contravenes *subsection (1)* shall be guilty of an offence.

- (5) A secondary ticket operator who contravenes *subsection (2)* shall be guilty of an offence.

#### **Exemption for charitable organisations and amateur sports clubs**

- 18.** *Sections 15, 16 and 17* shall not apply to the sale or advertising for sale of a ticket or a ticket package by or on behalf of a charitable organisation or an amateur sports club for a relevant event where—
- (a) the sale of that ticket or ticket package has been approved by an event organiser, and
  - (b) the proceeds of the sale are used only for the purpose of funding the activities of the charitable organisation or amateur sports club.

### PART 4

#### MATTERS RELATING TO SALE OF TICKETS FOR EVENTS, INCLUDING EVENTS IN DESIGNATED VENUES AND DESIGNATED EVENTS

#### **Contract terms excluding or limiting transfer or sale of ticket or ticket package**

- 19.** (1) Subject to *subsection (2)*, a term in a contract between a primary ticket seller and another person for the sale of a ticket or ticket package shall be void insofar as it purports to exclude or limit—
- (a) the transfer of the ticket or ticket package by that other person for no monetary consideration, or
  - (b) the sale of the ticket or ticket package by that other person for a price not exceeding the original sale price.
- (2) *Subsection (1)* shall not apply to a term in a contract for the transfer or sale of a ticket or ticket package for an event which excludes or limits the transfer or sale of tickets or ticket packages on the grounds of safety, public health or public order.
- (3) Nothing in this section shall prevent or limit an event organiser from enforcing a term in a contract for the sale of a ticket or ticket package that prohibits the sale of the ticket or ticket package for a price exceeding the original sale price.
- (4) This section applies to a term in a contract between a primary ticket seller and another person for the sale of a ticket or a ticket package on or after the day on which this section comes into operation.

#### **Powers of Garda Síochána to enter and search, etc.**

- 20.** (1) Where a member of the Garda Síochána has reasonable grounds for believing that a person is at any place committing or has committed an offence or that evidence of, or relating to, the commission of an offence under this Act is to be found in any place, he

or she may, subject to *subsection (2)*, enter (if necessary by the use of reasonable force) any such place and at such place—

- (a) inspect and take copies of any books, records, other documents (including documents stored in non-legible form) or extracts therefrom, which he or she finds in the course of his or her inspection, and remove any such books, records or documents from such place and retain them for such period as he or she reasonably considers to be necessary for the purposes of this Act,
  - (b) require any person present in the place or, where the place is a vehicle, require the person who is for the time being in charge or control of the vehicle to give his or her name and address to the member,
  - (c) search or cause to be searched any person present in the place,
  - (d) require any person at the place or the owner or person in charge of the place and any person employed there to give to the member such assistance and information and to produce to him or her such books, records or other documents (and in the case of records or documents stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's power or procurement, as he or she may reasonably require for the purposes of his or her functions under this Act,
  - (e) examine, seize and retain anything found at that place, or anything found in the possession of a person present at that place at the time of the search, that the member reasonably believes to be evidence of, or evidence relating to, the commission of an offence under this Act, and
  - (f) secure for later inspection any place or part of any place in which books, records or documents are found or ordinarily kept, for such period as may reasonably be necessary for the purposes of this Act.
- (2) A member of the Garda Síochána shall not enter a dwelling, other than with the consent of the occupier or in accordance with a warrant issued under *subsection (3)*.
- (3) If a judge of the District Court is satisfied by information on oath of a member of the Garda Síochána not below the rank of sergeant that there are reasonable grounds for believing that—
- (a) evidence of, or evidence relating to, the commission of an offence under this Act is to be found in any dwelling, or
  - (b) any books, records or other documents (including documents stored in non-legible form) relating to the commission of an offence under this Act are being stored or kept in any dwelling,

the judge may issue a warrant authorising a named member of the Garda Síochána accompanied by such other members of the Garda Síochána or such other named persons as the member thinks necessary, at any time or times, within one month from the date of issue of the warrant, to enter (if necessary by the use of reasonable force) the dwelling and perform the functions under *subsection (1)*.

- (4) This section is without prejudice to any other power conferred by statute or otherwise exercisable by a member of the Garda Síochána to enter a place, to search a person or to seize and retain evidence of, or evidence relating to, the commission or attempted commission of an offence.
- (5) The power to issue a warrant under this section is without prejudice to any other power conferred by statute to issue a warrant for the search of any place or person.
- (6) In this section—
- “record” includes, in addition to a record in writing—
- (a) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,
  - (b) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and
  - (c) a photograph,
- and any reference to a copy of a record includes—
- (i) in the case of a record to which *paragraph (a)* applies, a transcript of the sounds or signals embodied therein,
  - (ii) in the case of a record to which *paragraph (b)* applies, a still reproduction of the images embodied therein, and
  - (iii) in the case of a record to which *paragraphs (a) and (b)* apply, such a transcript together with such a still reproduction.

### **Obstruction**

- 21.** (1) A person shall be guilty of an offence if he or she—
- (a) obstructs or interferes with a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act or a warrant under *section 20(3)* or impedes the exercise by the member, of such power, or
  - (b) fails or refuses to comply with a request or requirement of, the person or member pursuant to *section 20*, or in purported compliance with such request or requirement gives information to the person or member that he or she knows to be false or misleading in any material respect.
- (2) A statement or admission made by a person pursuant to a requirement under *section 20* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (1)*).

**Arrest without warrant**

- 22.** (1) Where a member of the Garda Síochána finds any person committing an offence under *section 15*, the member may arrest such person without warrant.
- (2) Without prejudice to the generality of *section 20*, where a member of the Garda Síochána is of the opinion that an offence has been committed under *section 15*, the member may—
- (a) demand the name and address of any person whom the member suspects, with reasonable cause, has committed, or whom the member finds committing, such an offence, and
  - (b) arrest without warrant any such person who fails or refuses to give his or her name and address when demanded, or gives a name or address which the member has reasonable grounds for believing is false or misleading.
- (3) Any person who fails or refuses to give his or her name and address when demanded by virtue of *subsection (2)*, or gives a name or address when so demanded which is false or misleading, shall be guilty of an offence.

**Offences and penalties**

- 23.** (1) A person guilty of an offence under *section 16(4), 17(4), 17(5), 21(1) or 22(3)* shall be liable on summary conviction—
- (a) in the case of a first offence, to a class B fine or to imprisonment for a term not exceeding six months, or both, and
  - (b) in the case of a second or subsequent offence, to a class A fine or to imprisonment for a term not exceeding 12 months, or both.
- (2) A person guilty of an offence under *section 15(3)* shall be liable—
- (a) on summary conviction—
    - (i) in the case of a first offence, to a class B fine or to imprisonment for a term not exceeding six months, or both, and
    - (ii) in the case of a second or subsequent offence, to a class A fine or to imprisonment for a term not exceeding 12 months, or both,
  - and
  - (b) on conviction on indictment to a fine not exceeding €100,000 or imprisonment for a term not exceeding two years, or both.
- (3) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted at any time within two years from the date on which the offence was alleged to have been committed.
- (4) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any 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 shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (5) Where the affairs of a body corporate are managed by its members, *subsection (4)* 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.

### **Defences generally**

- 24.** In proceedings for an offence under this Act, it shall be a defence for a person against whom such proceedings are brought to show that he or she made all reasonable efforts to ensure compliance with such provisions of this Act as are alleged to have been contravened.

### **Defence for secondary ticket operator**

- 25.** (1) Without prejudice to the generality of *section 24*, it shall be a defence in proceedings for an offence under *section 15(3)* or *17(5)* for a secondary ticket operator to show that, at the time of the alleged offence, he or she was providing an information society service consisting of—
- (a) the transmission in a communication network of information provided by a recipient of the service or the provision of access to a communication network, including the automatic, immediate and transient storage of such information for the sole purpose of carrying out the transmission, provided that the operator does not—
    - (i) initiate the transmission,
    - (ii) select the receiver of the transmission,
    - (iii) select or modify the information contained in the transmission, and
    - (iv) that the information is not stored for any period longer than is reasonably necessary for the transmission,
  - (b) the automatic, intermediate and temporary storage of information provided by a recipient of a service for the transmission of information in a communication network and performed for the sole purpose of making more efficient the onward transmission of that information at the request of other recipients of the service, provided that the operator—
    - (i) does not modify the information,
    - (ii) complies with the conditions on access to the information,
    - (iii) complies with rules regarding the updating of the information specified in a manner widely recognised and used by industry,



- (iv) does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information, and
- (v) acts expeditiously to remove or to disable access to the stored information upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it disabled, or that a court has ordered such removal or disablement,

or

- (c) the storage of information provided by a recipient of the service at his or her request provided that—
  - (i) the recipient of the service is not acting under the authority or control of the operator,
  - (ii) the operator does not have actual knowledge of illegal activity or information, and the operator upon obtaining knowledge or awareness of such illegal activity acts expeditiously to remove or disable access to the information.

- (2) A word or expression which is used in this section and which is also used in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000<sup>2</sup> on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“Directive on electronic commerce”) has, unless the context otherwise requires, the same meaning in this section as it has in that Directive.

### **Legal privilege**

- 26.** (1) Subject to *subsection (2)*, nothing in this Act shall compel the disclosure by any person of privileged legal material or authorise the taking of privileged legal material.
- (2) The disclosure of information may be compelled, or possession of it taken, pursuant to this Act, notwithstanding that it is apprehended that the information is privileged legal material provided that the compelling of its disclosure or the taking of its possession is done by means whereby the confidentiality of the information can be maintained (as against the person compelling such disclosure or taking such possession) pending the determination by the High Court of the issue as to whether the information is privileged legal material.
- (3) Without prejudice to *subsection (4)*, where, in the circumstances referred to in *subsection (2)*, information has been disclosed or taken possession of pursuant to this Act, the person—
- (a) to whom such information has been so disclosed, or
  - (b) who has taken possession of it,
- shall (unless the person has, within the period subsequently mentioned in this subsection, been served with notice of an application under *subsection (4)* in relation to the matter concerned) apply to the High Court for a determination as to whether the

<sup>2</sup> OJ No. L 178, 17.7.2000, p. 1.

information is privileged legal material and an application under this section shall be made within 30 days after the disclosure or the taking of possession.

- (4) A person who, in the circumstances referred to in *subsection (2)*, is compelled to disclose information, or from whose possession information is taken, pursuant to this Act, may apply to the High Court for a determination as to whether the information is privileged legal material.
- (5) Pending the making of a final determination of an application under *subsection (3)* or *(4)*, the High Court may give such interim or interlocutory directions as the court considers appropriate including, without prejudice to the generality of the foregoing, directions as to—
- (a) the preservation of the information, in whole or in part, in a safe and secure place in any manner specified by the court,
  - (b) the appointment of a person with suitable legal qualifications possessing the level of experience, and the independence from any interest falling to be determined between the parties concerned, that the court considers to be appropriate for the purpose of—
    - (i) examining the information, and
    - (ii) preparing a report for the court with a view to assisting or facilitating the court in the making by the court of its determination as to whether the information is privileged legal material.
- (6) An application under *subsection (3)*, *(4)* or *(5)* shall be by motion and may, if the High Court directs, be heard otherwise than in public.
- (7) In this section—
- “computer” includes a personal organiser or any other electronic means of information storage or retrieval;
- “information” means information contained in a book, document or record, a computer or otherwise;
- “privileged legal material” means information which, in the opinion of the court, a person is entitled to refuse to produce on the grounds of legal professional privilege.