



Number 47 of 1998

**COMPTROLLER AND AUDITOR GENERAL AND
COMMITTEES OF THE HOUSES OF THE OIREACHTAS
(SPECIAL PROVISIONS) ACT, 1998**

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Acts Referred to

Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act, 1997	1997, No. 17
Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976	1976, No. 10
Companies Act, 1990	1990, No. 33
Companies Acts, 1963 to 1990	
Comptroller and Auditor-General Act, 1923	1923, No. 1
Comptroller and Auditor General (Amendment) Act, 1993	1993, No. 8
Corporation Tax Act, 1976	1976, No. 7
Exchequer and Audit Departments Act, 1866	1866, c. 39
Exchequer and Audit Departments Act, 1921	1921, c. 52
Finance Act, 1986	1986, No. 13
Freedom of Information Act, 1997	1997, No. 13
Income Tax Act, 1967	1967, No. 6
Taxes Consolidation Act, 1997	1997, No. 39
Waiver of Certain Tax, Interest and Penalties Act, 1993	1993, No. 24



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**COMPTROLLER AND AUDITOR GENERAL AND
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(SPECIAL PROVISIONS) ACT, 1998**

AN ACT TO PROVIDE FOR THE EXAMINATION AND INVESTIGATION BY THE COMPTROLLER AND AUDITOR GENERAL OF THE ASSESSMENT AND COLLECTION BY THE REVENUE COMMISSIONERS DURING SUCH PERIOD AS MAY BE SPECIFIED BY DÁIL ÉIREANN BY RESOLUTION OF AMOUNTS REPRESENTING INCOME TAX THAT WERE REQUIRED BY LAW TO BE DEDUCTED BY CERTAIN FINANCIAL INSTITUTIONS FROM INTEREST PAYABLE BY THEM ON CERTAIN DEPOSITS OF MONEY WITH THEM AND PAID TO THE COLLECTOR-GENERAL, TO AMEND THE COMMITTEES OF THE HOUSES OF THE OIREACHTAS (COMPELLABILITY, PRIVILEGES AND IMMUNITIES OF WITNESSES) ACT, 1997, AND TO PROVIDE FOR RELATED MATTERS. [16th December, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, save where the context otherwise requires— Interpretation.

“the Act of 1997” means the Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act, 1997;

“agent”, in relation to a person, includes the solicitors and auditors of the person;

“auditor” means a person who is qualified, for the purposes of Part X of the Companies Act, 1990, for appointment as auditor of a company and is not an officer of the Comptroller, or any other person (other than such an officer) whom the Comptroller considers suitable, having regard to his or her qualifications or experience, for appointment under *section 2*;

“the Committee”, except in *section 11*, means the Committee of Public Accounts of Dáil Éireann while engaged in the performance of the duties assigned to it by resolution of Dáil Éireann passed pursuant to *section 2(1)* and any subcommittee of that Committee while so engaged;

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- S.1 “the Comptroller” means the Comptroller and Auditor General;
- “direction” means a direction under *section 3* and cognate words shall be construed accordingly;
- “director” means a director within the meaning of the Companies Acts, 1963 to 1990, but includes, in the case of a financial institution that is not a company (within the meaning of those Acts), a person who is a member of it or of any board or other body that controls, manages or administers it;
- “document” includes any class or description of document and also includes thing;
- “evidence” includes the expression of an opinion, belief or intention;
- “financial institution” means a person who is a relevant deposit taker within the meaning of Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997, but includes any company that, for the purposes of the Companies Act, 1990, is related to such an institution or, in the case of an institution that is not a company, would be so related if it was a company;
- “functions” includes powers and duties;
- “the Minister” means the Minister for Finance.

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other provision is intended,
- (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

Examinations and investigations by Comptroller in relation to assessment and collection by Revenue Commissioners of income tax payable by certain financial institutions on certain payments of interest by them.

2.—(1) Subject to the provisions of this Act, the Comptroller may, if so requested by Dáil Éireann by resolution passed consequent upon its being apprised of *prima facie* evidence of substantial risk to the revenues of the State—

- (a) carry out such examinations and investigations as he or she considers appropriate of the affairs and the books of account and other records in any form and other documents in respect of the period specified in the resolution of the financial institutions specified in the resolution, being institutions that were required by Chapter IV of Part I of the Finance Act, 1986, and Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997, to deduct amounts representing income tax from payments of amounts in respect of interest made by them during the period aforesaid on certain deposits of money with them and to pay the amounts representing income tax to the Collector-General and to make returns to the Collector-General of the amounts aforesaid of interest and the amounts aforesaid representing income tax and were required by

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section 175 of the Income Tax Act, 1967, and section 891 S.2
of the Taxes Consolidation Act, 1997, to make certain
other returns to an inspector of taxes in respect of
interest payable by them without deduction of income
tax,

- (b) carry out such examinations referred to in section 3(7) of the Comptroller and Auditor General (Amendment) Act, 1993, and such other examinations and investigations as he or she considers appropriate,
- (c) if the Comptroller considers it necessary to do so for the purpose of the performance of his or her functions under this Act, appoint an auditor to carry out on his or her behalf and subject to his or her control and supervision and upon and subject to such other terms and conditions (if any) as the Comptroller may determine or the High Court may specify under *section 14* such examinations and investigations as the auditor considers appropriate, for the purpose of enabling the Comptroller to perform his or her functions under this Act, of accounts or deposits held in the financial institutions aforesaid during the period specified in the resolution, and of the affairs and the books of account and other records in any form and other documents of those institutions in respect of that period in so far as they relate to such accounts and deposits; and the auditor so appointed shall carry out the examinations and investigations aforesaid, and
- (d) examine any report under *subsection (2)* furnished to him or her by an auditor appointed under *paragraph (c)* and, if he or she considers it appropriate to do so, discuss the report with the auditor and question him or her in relation to any particular matter in, or arising in connection with, the report, or in relation to the report generally,

in order—

- (i) to ascertain—
 - (I) whether the books of account, records and documents aforesaid are complete and accurate in so far as they relate to the deposits, the interest, and the amounts representing income tax, aforesaid and whether those of them that may be inspected by an inspector of taxes provide for him or her a full and true picture of the extent of those institutions' compliance with Chapter IV of Part I of the Finance Act, 1986, and Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997, and the said sections 175 and 891 in respect of the deposits, the interest, the amounts representing income tax, and the returns, aforesaid,
 - (II) whether the Revenue Commissioners have taken appropriate steps to satisfy themselves as to whether those institutions have complied with the said Chapter IV, the said Chapter 4 and the said sections 175 and 891 in respect of the deposits, the interest, the amounts representing income tax, and the returns, aforesaid,

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(III) whether those institutions have complied with any other relevant provisions of the Tax Acts (within the meaning of the Corporation Tax Act, 1976, and the Taxes Consolidation Act, 1997) in respect of the matters aforesaid, and

(IV) if there is a shortfall in the amount paid by those institutions under the said Chapter IV and the said Chapter 4 in respect of the said amounts representing income tax, the reasons for and the circumstances of the shortfall,

(ii) to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment and collection and proper allocation of the amounts aforesaid representing income tax by the Revenue Commissioners and its payment by the financial institutions aforesaid to the Revenue Commissioners, and

(iii) to satisfy himself or herself as to whether the manner in which the systems, procedures and practices aforesaid have been employed and applied in relation to such interest and amounts representing income tax is adequate.

(2) An auditor appointed under *subsection (1)* shall prepare a report in writing of the results of any examinations and investigations carried out by him or her under this section and shall, if and whenever so requested by the Comptroller, prepare an interim report in writing in relation to any such examinations and investigations and shall cause any such report to be furnished to the Comptroller.

(3) The Comptroller shall prepare a report in writing of the results of any examinations (including an examination under *paragraph (d)* of *subsection (1)*) and investigations carried out by him or her under this section and shall, if and whenever he or she considers it appropriate to do so, prepare an interim report in writing on any matter in relation to which he or she has completed his or her examinations and investigations under this section, and shall cause any such report to be furnished to the Clerk of Dáil Éireann and may, if he or she considers it appropriate to do so, cause a copy of any such report to be furnished to the clerk to the Committee.

(4) The functions conferred on the Comptroller by the subsequent sections of this Act may be exercised or performed only for the purposes of his or her functions under this section.

(5) Examinations or investigations under *paragraph (a)* or *(b)* of *subsection (1)* shall not be carried out in relation to any accounts opened or deposits held by persons in the financial institutions referred to in the said *paragraph (a)* or any books of account or other records in any form or other documents of such institutions in so far as they relate to individual such accounts or deposits.

(6) Subject to *subsection (7)*, persons who have or have had accounts or deposits in a financial institution referred to in *subsection (1)* or are or were beneficial owners of such accounts or deposits shall not be referred to either in a report under this section or otherwise by the Comptroller or by an auditor appointed under *subsection (1)* (otherwise than for the purposes of *subsection (7)*) by name or in any other manner by which they could be identified as having or having had such accounts or deposits or being or having been such beneficial owners.

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(7) The Comptroller may furnish to the Revenue Commissioners— S.2

- (a) particulars of a possible underpayment or non-payment of amounts representing income tax *prima facie* evidence of which is obtained by the Comptroller in the course of his or her examinations and investigations under this Act, and
- (b) particulars of the possible commission of an offence under section 9 of the Waiver of Certain Tax, Interest and Penalties Act, 1993, to which subsection (1)(b)(ii) of that section relates if *prima facie* evidence of such commission is obtained by the Comptroller in the course of such examinations and investigations,

and particulars of the persons concerned, including their names, addresses and occupations, trades or professions.

(8) The utterances of an auditor appointed under *subsection (1)* or an employee, agent or adviser of the auditor made for the purposes of the functions of the auditor under this Act shall be absolutely privileged and those utterances, a report under this section and documents, or records, in any form made or prepared by any of the persons aforesaid for the purposes aforesaid shall be absolutely privileged wherever and however published.

(9) A person who obstructs, hinders or interferes with the Comptroller or an auditor appointed under *subsection (1)* in the performance of his or her functions under this Act shall be guilty of an offence.

(10) Section 11(2) of the Comptroller and Auditor General (Amendment) Act, 1993, shall not apply to an examination by the Comptroller and Auditor General under this section.

3.—(1) Subject to the provisions of this Act, the Comptroller may—

Power of
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obtain evidence.

- (a) direct in writing any person whose evidence is required by the Comptroller to attend before him or her on a date and at a time and place specified in the direction and there to give evidence and to produce any document in his or her possession or power specified in the direction,
- (b) direct a person in attendance before the Comptroller pursuant to *paragraph (a)* to produce to him or her any document in his or her possession or power specified in the direction,
- (c) direct in writing any person to send to the Comptroller any document in his or her possession or power specified in the direction,
- (d) direct in writing any person to make discovery on oath of any documents that are or have been in that person's possession or power relating to any matter relevant to the functions of the Comptroller under *section 2* and to specify in the affidavit of documents concerned any documents mentioned therein which he or she objects to produce to the Comptroller and the grounds for the objection, and the rules of court relating to the discovery of documents in proceedings in the High Court shall apply in relation to the discovery of documents pursuant to this paragraph with any necessary modifications,

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(e) for the purpose of the performance of the functions of the Comptroller under *section 2*, give any other directions that appear to the Comptroller to be reasonable and just.

(2) Such reasonable expenses as the Minister may determine of a person who, pursuant to a request of the Comptroller or a direction, attends before the Comptroller, shall be paid to him or her out of moneys provided by the Oireachtas.

(3) A direction in writing shall be signed by the Comptroller.

(4) *Subsection (1)* does not apply to—

(a) accounts opened by persons with the institutions aforesaid or any books or other records in any form or documents of such institutions in so far as they relate to such accounts or to deposits held by persons in those institutions, or

(b) evidence relating to the accounts or deposits aforesaid or the books or other records or documents aforesaid insofar as they relate to such accounts or deposits,

but, notwithstanding the foregoing, evidence may be given to the Comptroller in relation to the numbers of, and the total amounts of money held in, the deposits referred to in *section 2(1)* and the total amount of interest paid in respect of those deposits.

(5) Where a person disobeys a direction, the High Court may, on application to it in a summary manner in that behalf by the Comptroller, order the person to comply with the direction and make such other (if any) order as it considers necessary and just to enable the direction to have full effect.

(6) A person who—

(a) having been directed under *paragraph (a)* of *subsection (1)* to attend before the Comptroller and having had tendered to him or her any sum in respect of the expenses of his or her attendance before the Comptroller that a witness summoned to attend before the High Court would be entitled to have tendered to him or her, without just cause or excuse, disobeys the direction,

(b) being in attendance before the Comptroller pursuant to a direction under the said *paragraph (a)*, refuses to take the oath on being required by the Comptroller to do so or refuses to answer any question to which the Comptroller may legally require an answer,

(c) without just cause or excuse, disobeys a direction under *paragraph (b), (c), (d)* or *(e)* of *subsection (1)*,

(d) in relation to the discovery of documents pursuant to *paragraph (d)* of *subsection (1)*, contravenes a rule of court referred to in that paragraph, or

(e) does any other thing in relation to the matters before the Comptroller which, if done in relation to proceedings before a court by a witness in the court or any other person, would be contempt of that court,

shall be guilty of an offence.

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(7) If a person gives false evidence before the Comptroller in such circumstances that, if the person had given the evidence before a court, the person would be guilty of perjury, the person shall be guilty of an offence and shall be liable on conviction on indictment thereof to the penalties applying to perjury. S.3

4.—A person—

- (a) whose evidence has been, is being or is to be given before the Comptroller, or who produces or sends a document to him or her, pursuant to a direction or request of the Comptroller or who is directed or requested by the Comptroller to give evidence or produce a document to the Comptroller or to attend before him or her and there to give evidence or produce a document, or
- (b) who makes a statement or gives or sends a document to an auditor appointed under *section 2* pursuant to a request of the auditor for the purposes of his or her functions under that section or to whom a requirement is made under *section 7, 9 or 10,*

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shall be entitled to the same privileges and immunities in respect of those matters as a witness before the High Court.

5.—A statement or admission made by a person before the Comptroller or an auditor appointed under *section 2*, or a document given or sent by a person to the Comptroller pursuant to a direction or request of the Comptroller to the person or specified in an affidavit of documents made by a person and given to the Comptroller by the person pursuant to a direction or request of the Comptroller to the person, or given or sent to such auditor by a person pursuant to a request or requirement made by him or her to the person shall not be admissible as evidence against the person in any criminal proceedings (other than proceedings in relation to an offence under *subsection (6) or (7) of section 3*) and *section 4* shall be construed and have effect accordingly.

Non-admissibility in criminal proceedings of evidence given to Comptroller or auditor.

6.—(1) A witness before the Comptroller may be required by the Comptroller to give his or her evidence to the Comptroller on oath.

Evidence on oath to Comptroller.

(2) Where a requirement under *subsection (1)* is made, the Comptroller or an officer of the Comptroller authorised in that behalf by the Comptroller may administer the oath to the witness concerned.

7.—(1) If it appears to an auditor appointed under *section 2* that it is necessary for the purposes of the performance of his or her functions under this Act to investigate the ownership of any shares in or debentures of a company, he or she may require any person whom he or she has reasonable cause to believe to have or to be able to obtain any information as to the present and past interests in those shares or debentures and the names and addresses of the persons having those interests and of any persons who act or have acted on their behalf in relation to the shares or debentures to give the information to the auditor.

Power of auditor to require information as to persons interested in shares or debentures.

(2) For the purposes of this section a person shall be deemed to have an interest in a share or debenture if he or she has any right to

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acquire or dispose of the share or debenture or any interest therein or to vote in respect thereof or if his or her consent is necessary for the exercise of any of the rights of other persons interested therein or if the other persons interested therein can be required or are accustomed to exercise their rights in accordance with his or her instructions.

(3) A person who fails to give any information required of him or her under this section that he or she has or is able to obtain or who in giving any such information makes any statement which he or she knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence.

Powers of auditor regarding related companies, etc.

8.—If it appears to an auditor appointed under *section 2* to be necessary to do so for the purpose of the performance of his or her functions under this Act, he or she may exercise the powers conferred on him or her by this Act—

(a) in relation to any company that, for the purposes of the Companies Act, 1990, is related to a financial institution specified in *section 2(1)* or, in the case of such an institution that is not a company, would be so related if it were a company, or

(b) in relation to any body incorporated outside the State in so far as it is carrying on or at any time carried on any business in the State.

Production of documents and evidence to auditor.

9.—(1) It shall be the duty of the financial institutions specified in *section 2(1)*, any bodies corporate whose affairs are being examined or investigated pursuant to *section 8* and directors, officers, employees, advisers and agents of such institutions and bodies corporate and former such directors, officers, employees, advisers and agents to produce to an auditor appointed under *section 2*, when required to do so, all books of account and other records in any form and other documents of or relating to the institutions or bodies corporate that are in their custody or power, to attend before the auditor when required to do so and otherwise to give the auditor all assistance in connection with examinations or investigations by him or her under *section 2* that they are reasonably able to give; and the auditor may make requirements for the purposes of this subsection.

(2) If an auditor appointed under *section 2* considers that a person other than a person referred to in *subsection (1)* may be in possession of any information concerning the affairs of a financial institution or body corporate referred to in *subsection (1)* that he or she requires for the purpose of the performance of his or her functions under this Act, the auditor may require that person to produce to him or her any books of account and other records in any form and other documents in his or her custody or power relating to the institution or body corporate, to attend before him or her and otherwise to give the auditor all assistance in connection with the examinations or investigations aforesaid that the person is reasonably able to give.

(3) An auditor appointed under *section 2* may examine on oath, either by word of mouth or on written interrogatories, the persons referred to in *subsections (1)* and *(2)* in relation to the matters the subject of the examinations and investigations aforesaid and related matters and may—

(a) administer an oath accordingly, and

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(b) reduce the answers of such persons to writing and require S.9
them to sign them.

(4) Such reasonable expenses as the Minister may determine of a person who, pursuant to a request or requirement of the auditor, attends before the auditor, shall be paid to him or her out of moneys provided by the Oireachtas.

(5) If a person refuses to produce to an auditor appointed under *section 2* any book, record or other document which it is his or her duty under this section so to produce or, having had tendered to him or her any sum in respect of his or her attendance before the auditor that a witness summoned to attend before the High Court would be entitled to have tendered to him or her, refuses to attend before the auditor when required so to do, refuses to comply with a requirement under *subsection (2)* or refuses to answer any question which is put to him by the auditor in relation to the matters referred to in *subsection (3)*, the Comptroller may refer the refusal to the High Court, and that Court may thereupon enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and any statement which may be produced against or on behalf of the alleged offender and any statement which may be offered in defence, may, if it is satisfied that the refusal occurred, punish the offender in like manner as if he or she had been guilty of contempt of court.

(6) Without prejudice to its power under *subsection (5)*, the High Court may, after a hearing under that subsection, make any order or give any direction it thinks fit, including a direction to the person concerned to attend or re-attend before the auditor concerned or produce particular books or documents or answer particular questions put to him or her by the auditor, or a direction that the person concerned need not produce a particular book or document or answer a particular question put to him or her by the auditor.

10.—(1) An auditor appointed under *section 2* or a person duly authorised in that behalf by such auditor in writing (each of whom are referred to subsequently in this section as an authorised person) may for the purpose of obtaining any information that may be required in order to enable the Comptroller to perform the functions conferred on him or her by this Act— Search and entry.

(a) at all reasonable times enter any premises if there are reasonable grounds for believing that the business of a financial institution to which an examination or investigation under *section 2(1)* relates is being carried on there or that records in relation to such a business are kept there and search and inspect the premises and inspect any books of account, records in any form or documents found on the premises,

(b) secure for later inspection the premises or any part of the premises if records in relation to such a business are kept there or there are reasonable grounds for believing that such records are so kept,

(c) require any person found on the premises who is employed or engaged in or in connection with the business (including a director) to produce to the authorised person any records kept on the premises and to give to him or her such information as he or she may reasonably require in relation to any entries in any such records and, in the

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case of such information in a non-legible form, to reproduce it in a legible form,

- (d) inspect and take copies of or of extracts from any such records (including, in the case of information in a non-legible form, a copy of or of an extract from such information in a permanent, legible form),
- (e) remove and retain any such books of account, records in any form or documents for such period as may be reasonable for further examination,
- (f) require any such person as aforesaid to give to the authorised person any information in his or her possession or power which the authorised person may reasonably require in regard to any business being carried on there or in regard to the persons employed or engaged in or in connection therewith (including any director) or formerly so employed or engaged and to give to the authorised person any other such information which he or she may reasonably require in regard to such business,
- (g) require any person found on the premises by or on whose behalf data equipment is or has been used 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 authorised person all reasonable assistance in relation thereto,
- (h) require, at any reasonable time, any other person employed or engaged in or in connection with the business (including any director) or formerly so employed or engaged and any agent or former agent of such an institution as aforesaid to give to the authorised person at such reasonable time and place as may be specified in the requirement any information in the possession or power of the person which the authorised person may reasonably require in regard to such business and to produce to him or her any records which are in that person's or agent's possession or power.

(2) A person who obstructs, hinders or interferes with an authorised person (other than an auditor appointed under *section 2*) in the exercise of his or her powers under this section or gives to an authorised person information that is false or misleading or fails or refuses to comply with any requirement under this section shall be guilty of an offence.

(3) A person authorised by an auditor appointed under *section 2* to exercise the powers conferred by this section shall be furnished with the authorisation and when exercising any such power shall, if so requested by a person affected, produce the authorisation or a copy thereof to the person, and such auditor shall when exercising any such power, if so requested by a person affected, produce a document identifying him or her as such auditor.

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(2) The utterances, made otherwise than at meetings of the Committee, of advisers, officials and agents of the Committee for the purpose of the performance of their functions as such advisers, officials and agents shall be absolutely privileged and those utterances and documents, or records, in any form prepared by those persons for the purpose of such performance shall be absolutely privileged wherever and however published. S.11

(3) In this section “the Committee” means the Committee of Public Accounts of Dáil Éireann and any subcommittee of that Committee.

12.—Utterances made by the Comptroller, or an officer of the Comptroller, for the purpose of the performance of the functions of the Comptroller, shall be absolutely privileged and such utterances and documents, or records, in any form prepared by the Comptroller or an officer of the Comptroller for the purpose of such performance shall be absolutely privileged wherever and however published. Privilege of Comptroller.

13.—(1) Subject to *section 2(6)* and *subsection (2)*, any prohibition or restriction imposed by law (including any contract) in relation to the disclosure of information (including records in any form or documents) shall not apply in relation to the disclosure of information to or access to information by the Comptroller, or the auditor appointed under *section 2*, for the purposes of their functions under this Act or in relation to any information that is contained in a report of the Comptroller or such an auditor under that section and is information that in the opinion of the Comptroller, or the auditor, as the case may be, ought in the public interest to be so contained. Disclosure of information to Comptroller.

(2) *Subsection (1)* does not apply—

- (a) in relation to any prohibition or restriction imposed by or pursuant to an act of an institution of the European Union, or
- (b) to an agreement between the State and another state in relation to taxation.

14.—(1) The Comptroller may whenever he or she thinks it appropriate or expedient to do so apply to the High Court for directions in relation to the performance of any of his or her functions under this Act or those of an auditor appointed under *section 2* or for its approval of any act or omission proposed to be done or made by the Comptroller or the auditor for the purposes of such performance. Directions, etc., of High Court.

(2) On such an application as aforesaid, the High Court may—

- (a) give such directions (including a direction that the Comptroller, should make a report and, if that Court considers it appropriate, an interim report to it at or before such times as it may specify in relation to the matter the subject of the application or any related matter),
- (b) make any order that it considers appropriate,
- (c) refuse to approve of any such act or omission as aforesaid.

(3) The Comptroller and an auditor appointed under *section 2* shall comply with a direction or order of the High Court under this

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section and shall not do any such act as aforesaid or make any such omission as aforesaid if the High Court has refused to approve of it.

(4) The High Court may, on application to it in that behalf by the Comptroller, specify terms and conditions upon and subject to which an auditor appointed under *section 2* shall perform his or her functions under this Act, and those terms and conditions may be in addition to or instead of any determined or that may be determined by the Comptroller under *section 2(1)*, and the auditor shall comply with any terms or conditions specified under this subsection.

(5) The High Court shall give such priority as it reasonably can having regard to all the circumstances to the disposal of proceedings in that Court under this Act or the Act of 1997.

(6) The Superior Courts Rules Committee may make rules to facilitate the giving of effect to *subsection (5)*.

Assessors.

15.—If the Committee considers that in the performance of its functions it requires the advice, guidance or assistance of experts in respect of any matter arising at or in connection with meetings of the Committee, it may, upon such terms and conditions as it may determine, with the consent of the Minister, appoint such number of assessors having expertise in relation to that matter as it may determine, with the like consent, to provide it with such advice, guidance or assistance.

Protection of privacy of certain meetings of committees.

16.—Utterances made or documents or records in any form prepared at or for meetings of a committee (within the meaning of the Act of 1997) that are held otherwise than in public and at which no evidence is given to the committee shall not be disclosed without the consent of the Chairman of the committee.

Provisions in relation to offences.

17.—(1) A person guilty of an offence under this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Where an offence under this Act is committed 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 any wilful neglect on the part of, any person, being a director, manager, secretary or any 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, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(3) A person who has been punished by the High Court for failure or refusal to comply with an order of that Court under *subsection (5) of section 3* relating to a particular direction shall not be tried for an offence under *subsection (6) of that section* or *section 2(9)* in relation to that direction and a person who has been tried for an

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offence under the said *subsection (6)* or *section 2(9)* relating to a S.17
particular direction shall not be proceeded against for failure or
refusal to comply with an order of the High Court under the said
subsection (5) relating to that direction.

(4) A person who has been punished by the High Court under
section 9(5) shall not be tried for an offence under *section 2(9)*
in relation to the matter occasioning the punishment and a person who
has been tried for such an offence shall not be punished by the High
Court in respect of the matter the subject of the offence.

18.—(1) The expenses of and incidental to the performance of the
functions of the Comptroller and an auditor appointed under *section*
2 and the expenses of the Committee shall, with the consent of the
Minister, be defrayed in the first instance out of moneys provided by
the Oireachtas but the High Court may direct, on application to it in
that behalf by the Minister, that a financial institution referred to in
section 2(1) shall be liable, to such extent as that Court may direct,
to pay to the Minister such amount not exceeding the aggregate
amount of the expenses aforesaid as it may determine, and the Mini-
ster shall pay any amount paid to him or her pursuant to this subsec-
tion into the Exchequer.

Expenses of
Comptroller,
auditor and
Committee.

(2) The Committee may, if it thinks fit, having regard to any
reports of the Comptroller under *section 2* and to any evidence
obtained by the Committee in relation to matters arising therefrom,
submit to the High Court a recommendation as to the directions (if
any) that it considers appropriate, having regard to examinations and
investigations under that section, to be given under *subsection (1)*.

19.—(1) The Act of 1997 is hereby amended—

Amendment of Act
of 1997.

- (a) in section 4(2), by the substitution of “paragraph (a) of
section 3(1)” for “paragraph (a)”,
- (b) in section 5(4), by the substitution of “a committee referred
to in subsection (1)(b)” for “a committee appointed pur-
suant to subsection (1)(b)”,
- (c) in section 11(1), by the insertion after “immunities” of “in
respect of those matters”, and
- (d) in section 17(3), by the substitution of “subsection (8)” for
“subsection (10)” in both places where it occurs.

(2) For the removal of doubt, it is hereby declared that one con-
sent under subsection (1) of section 3 of the Act of 1997 may relate to
all the directions that will be given under that section by a committee
referred to in that section in relation to a specified function or speci-
fied functions of that committee.

(3) A direction under subsection (1) of section 3 of the Act of
1997 for the purposes of section 10 of that Act may be given without
the consent specified in that subsection.

20.—Section 5 of the Act of 1997 shall have effect in relation to
the Committee as if paragraph (f) of subsection (1) were deleted.

Amendment of Act
of 1997 in relation
to Committee.

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Amendment of Comptroller and Auditor-General Act, 1923.

21.—Section 7(2) of the Comptroller and Auditor-General Act, 1923, is hereby amended by the substitution of “requested by resolution” for “required by resolution”.

Restriction of Freedom of Information Act, 1997.

22.—The Freedom of Information Act, 1997, does not apply to a record relating to an examination or investigation carried out under this Act by the Comptroller or an auditor appointed under *section 2* other than—

- (a) such a record that was created before the commencement of the examination or investigation, or
- (b) a record relating to the general administration of the Office of the Comptroller.

Expenses.

23.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Short title and collective citation.

24.—(1) This Act may be cited as the Comptroller and Auditor General and Committees of the Houses of the Oireachtas (Special Provisions) Act, 1998.

(2) The Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976, the Act of 1997 and *sections 11, 16 and 19* may be cited together as the Committees of the Houses of the Oireachtas Acts, 1976 to 1998.

(3) The Exchequer and Audit Departments Act, 1866, the Exchequer and Audit Departments Act, 1921, the Comptroller and Auditor General Acts, 1923 and 1993 and *sections 12, 21 and 22* may be cited together as the Comptroller and Auditor General Acts, 1866 to 1998.