



STATUTORY INSTRUMENTS.

S.I. No. 272 of 2022



CRIMINAL JUSTICE (MONEY LAUNDERING AND TERRORIST
FINANCING) ACT 2010 (SECTION 109B) (CERTIFICATE OF FITNESS)
REGULATIONS 2022

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CRIMINAL JUSTICE (MONEY LAUNDERING AND TERRORIST
FINANCING) ACT 2010 (SECTION 109B) (CERTIFICATE OF FITNESS)
REGULATIONS 2022

I, HELEN MCENTEE, Minister for Justice, in exercise of the powers conferred on me by sections 3(1) and 109B (as inserted by section 35 of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 (No. 26 of 2018)) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010) (as adapted by the Justice and Equality (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 452 of 2020)) and having consulted with the Minister for Finance, hereby make the following regulations:

1. These Regulations may be cited as the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (Section 109B) (Certificate of Fitness) Regulations 2022.

2. In these Regulations, “Act of 2010” means Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010).

3. The form set out in Schedule 1 is prescribed as the form of the notice of intent for the purposes of section 109B(2) of the Act of 2010.

4. The form set out in Schedule 2 is prescribed for the purposes of section 109B(3) of the Act of 2010, as the form of the application for a certificate of fitness to which section 109B(1)(a) of that Act applies.

5. The form set out in Schedule 3 is prescribed for the purposes of section 109B(3) of the Act of 2010, as the form of the application for a certificate of fitness to which section 109B(1)(b) of that Act applies.

6. The form set out in Schedule 4 is prescribed as the form of the certificate of fitness for the purposes of section 109B(6) of the Act of 2010.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 7th June, 2022.*

Schedule 1

Notice of Intent (as required under section 109B (2) of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended) to be published in two daily newspapers not later than 14 days and not earlier than one month before making the application for a certificate of fitness.

I, _____ (insert name) of _____,
 _____, _____ (insert full address,
 including postcode) as _____ (insert 'effective director'
 or 'beneficial owner' as appropriate) of _____,
 _____,
 _____,
 _____ (insert full Private Members Club company name, including registered address
 and postcode) hereby give notice of my intention to make an application for a
 Certificate of Fitness and Probity in accordance with section 109B of the
 Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as
 amended.

Schedule 2

*Application for a Certificate of Fitness and Probity - Persons who are **Ordinarily Resident** in the State in accordance with sections 109A and 109B of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended (“the CJA 2010”).*

EXPLANATORY NOTE

Under the CJA 2010, an individual who effectively directs or is the beneficial owner of a private members’ club at which gambling activities are carried on, must hold a certificate of fitness and probity (certificate of fitness). The term “beneficial owner” has the meaning assigned to it by sections 26 to 30 of the CJA 2010.

Where the applicant is ordinarily resident in the State i.e. the person’s principal residence was in the State for the 12 months immediately preceding their application, certificates are granted by a Superintendent of An Garda Síochána. [*A separate application form is to be used if the applicant is not ordinarily resident in the State.*] The issuing Superintendent must be satisfied that the applicant is a fit and proper person.

A Garda vetting application form (<https://vetting.garda.ie>) must accompany this application form. As part of the Garda Vetting process an applicant must disclose any and all convictions. This disclosure must include such offences as driving offences, non-payment of a TV licence and public order offences, and includes the application of probation or community service. This covers offences in the Republic of Ireland.

If you lived in any jurisdiction other than the Republic of Ireland for 6 months or more it will be mandatory to provide security clearance for each jurisdiction in which you have resided stating that you have no convictions recorded against you while residing there.

Additionally, the applicant must enclose a copy of Government-issued photographic identification (preferably colour), proof of address (utility bill, bank statement or official Government-issued document dated within six months) and evidence that a notice of intent has been published in two daily newspapers circulating in the State not later than 14 days and not earlier than one month before making the application.

Tick the below boxes to confirm that the listed documents are submitted to An Garda Síochána with this form:

1. Completed Garda vetting invitation form and police certificates of no conviction from all countries that the applicant resided in for longer than six months.	
2. Copy of Government-issued photographic identification.	
3. Proof of address in the form of a utility bill, bank statement or official Government-issued document dated within six months.	
4. The CJA 2010 requires that between 14 days and not earlier than one month before applying to An Garda Síochána, the applicant has published a notice of intention to make the application in two daily newspapers circulating in the State. This form should be accompanied by a copy of the published newspaper notices. (See Schedule 1 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (Private Members' Club— Certificate of Fitness and Probity) Regulations 2021 for further information.)	

Note – For an application form to be considered complete it must include all the relevant documentation listed above. Only completed application forms will be accepted for consideration. Incomplete applications forms will not be processed by An Garda Síochána.

Name of applicant who effectively directs a Private Members' Club (PMC) at which gambling activity is carried out or who is a beneficial owner of a PMC:

Name and Location of the Private Members' Club associated with this Fit and Proper test:

DECLARATION BY THE APPLICANT

I, _____ (name of applicant) declare that:

1. I have truthfully and fully answered each question in this questionnaire, and have disclosed any and all other information, which might reasonably be considered relevant to this application.

2. I have not been convicted of an offence under:
 - (a) an enactment relating to excise duty on betting;
 - (b) the Gaming and Lotteries Acts 1956 to 2013;
 - (c) section 1078 of the Taxes Consolidation Act 1997;
 - (d) the Criminal Justice (Theft and Fraud Offences) Act 2001, or
 - (e) the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.

3. I have not been convicted of an offence under the law of a place other than this State relating to the conduct of gambling or

consisting of an act or omission that, if committed in this State, would constitute an offence referred to in paragraph 2.

4. I will immediately notify An Garda Síochána of any changes in the information which I have provided and confirm that I will inform An Garda Síochána in writing of the details of such changes and any other relevant/material information of which I may become aware at any time after the date of this Declaration.
5. I hereby authorise An Garda Síochána to make enquiries as to any convictions that may or may not be recorded against me.
6. This application includes all information pertaining to any relevant consideration as set out in section 109C of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.
7. I am aware that it is an offence and/or grounds for refusal of my application for a certificate of fitness granted on foot of the within application for me and/or the proposing entity:
 - (a) to knowingly or recklessly provide false or misleading information
 - and/or
 - (b) to make a false or misleading statement (including the withholding by me of relevant information) in the within application for a certificate of fitness.
8. I am aware that it is grounds for refusal of my application for a certificate of fitness granted on foot of the within application for me and/or the proposing entity by failing to inform and/or withholding from An Garda Síochána any details of:
 - (i) any change in circumstances;
 - (ii) any new information which is relevant and/or
 - (iii) any information that is material to the status of an approved person that may lead to the rejection of this application.

Signature: _____

Date: _____

Position/Proposed Position: _____

SECTION 1
DETAILS OF THE PERSON PROPOSED

PLEASE TYPE or WRITE CLEARLY. APPLICATIONS WHICH CANNOT BE READ WILL BE RETURNED. If typing, handwritten signature or a qualified electronic signature (as recognised under EU Electronic Identification and Trust Services for Electronic Transactions in the Internal Market Regulation 2014 (“eIDAS”) are still required).

All fields are to be completed.

A: Full Legal Name of the Applicant

First Name:
Surname:
Any other names or previous names:

B: Contact Details

Current Address:	
Email:	
Landline:	
Mobile:	

C: Other Details

Date of Birth:	
Nationality:	
Position:	
Are you the beneficial owner?	

SECTION 2
PROBITY, GOOD REPUTATION AND CHARACTER

Please tick Yes or No to each of the following questions. If the response to any question below is Yes, full details should be given on a separate sheet and referenced to the appropriate question.

1. Have you been convicted in the State or elsewhere, of any offence under: Yes No

(a) an enactment relating to excise duty on betting;

(b) the Gaming and Lotteries Acts 1956 to 2013;

(c) section 1078 of the Taxes Consolidation Act 1997;

(d) the Criminal Justice (Theft and Fraud Offences) Act 2001, or

(e) the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 as amended.

2. Have you previously been convicted of an offence under the law of a place (other than the State)—

Yes No

(a) consisting of an act or omission that, if committed in the State, would constitute an offence referred to in 1(a) to 1(e) above), or

(b) relating to the conduct of gambling.

3. Have you previously been refused a certificate of fitness? Yes No

4. If you have previously been refused a certificate of fitness, did you appeal the refusal to the District Court? **Yes** **No**

5. If you have previously been refused a certificate of fitness and appealed to the District Court, was the appeal successful? **Yes** **No**

Signature: _____

Date _____

Position/Proposed Position: _____

Privacy Statement

The data you provide in this form is collected by An Garda Síochána and will be used to make a determination on an applicant's fitness and probity under sections 109B, 109C, 109D and 109E of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended.

This data will be processed in accordance with An Garda Síochána personal data policies. For further information please visit <https://www.garda.ie/en/information-centre/data-protection/>.

You can request a copy of your personal data held by An Garda Síochána by returning a completed 'Subject Access Request Form' available from: <https://www.garda.ie/en/about-us/online-services/data-protection-foi-police-certificates/an-garda-siochana-f20-october-2019-.pdf> to:

An Garda Síochána,
Data Protection Unit,
Third Floor,
89-94 Capel Street,
Dublin 1.
D01 E3C6

Schedule 3

*Application for a Certificate of Fitness and Probity - Persons who are **NOT Ordinarily Resident** in the State in accordance with sections 109A and 109B of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended (“the CJA 2010”)*

EXPLANATORY NOTE

Under the CJA 2010, an individual who effectively directs or is the beneficial owner of a Private Members’ Club at which gambling activities are carried on, must hold a certificate of fitness and probity (certificate of fitness). The term “beneficial owner” has the meaning assigned to it by sections 26 to 30 of the CJA 2010.

Where the applicant is not ordinarily resident in the State i.e. the applicant’s principal residence was outside the State for the 12 months immediately preceding their application, certificates are granted by the Minister for Justice. [*A separate application form is to be used if the applicant normally resides in the State.*] The Minister must be satisfied that the applicant is a fit and proper person.

A Garda vetting application form (<https://vetting.garda.ie>) must accompany this application form. As part of the Garda Vetting process an applicant must disclose any and all convictions. This disclosure must include such offences as driving offences, non-payment of a TV licence and public order offences, and includes the application of probation or community service. This covers offences in the Republic of Ireland. A Garda vetting invite form is available from the Anti-Money Laundering Compliance Unit website: <https://www.amlcompliance.ie>

If you lived in any jurisdiction for 6 months or more other than the Republic of Ireland it will be mandatory to provide security clearance for each jurisdiction in which you have resided stating that you have no convictions recorded against you while residing there.

Additionally, the applicant must enclose a copy of Government-issued photographic identification (preferably colour), proof of address (utility bill, bank statement or official Government-issued document dated within six months) and evidence that a notice of intent has been published in two daily newspapers circulating in the State not later than 14 days and not earlier than one month before making the application.

Tick the below boxes to confirm that the listed documents are being submitted to the Anti-Money Laundering Compliance Unit in the Department of Justice with this form:

1. Completed Garda vetting invitation form in respect of any period during which the applicant resided in Ireland and police certificates of no conviction from all countries that the applicant resided in for longer than six months.	
2. Copy of Government-issued photographic identification.	
3. Proof of address in the form of a utility bill, bank statement or official Government-issued document dated within six months.	
4. The CJA 2010 requires that between 14 and 30 days before applying to the Minister for Justice, the applicant has published a notice of intention to make the application in two daily newspapers circulating in the State. This form should be accompanied by a copy of the published newspaper notices.	

Note – Only completed application forms will be accepted for consideration. For an application form to be considered complete it must include all the relevant documentation listed above. Incomplete applications will not be processed.

Name of applicant who effectively directs a Private Members' Club (PMC) at which gambling activity is carried out or who is a beneficial owner of a PMC:

Name and Location of the Private Members' Club associated with this Fit and Proper test:

DECLARATION BY THE APPLICANT

I, _____ (name of applicant) declare that:

1. I have truthfully and fully answered each question in this questionnaire, and have disclosed any and all other information, which might reasonably be considered relevant to this application.
2. I have not been convicted of an offence under:
 - (a) an enactment relating to excise duty on betting;
 - (b) the Gaming and Lotteries Acts 1956 to 2013;
 - (c) section 1078 of the Taxes Consolidation Act 1997;
 - (d) the Criminal Justice (Theft and Fraud Offences) Act 2001, or
 - (e) the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.
3. I have not been convicted of an offence under the law of a place other than this State relating to the conduct of gambling or consisting of an act or omission that, if committed in this State, would constitute an offence referred to in paragraph 2.
4. I will immediately notify the Minister for Justice (Anti-Money Laundering Compliance Unit) of any changes in the information which I have provided and confirm that I will inform the Minister for Justice (Anti-Money Laundering Compliance Unit) in writing of the details of such changes and any other relevant/material information of which I may become aware at any time after the date of this declaration.
5. I hereby authorise the Minister for Justice to make enquiries as to any convictions that may or may not be recorded against me.
6. This application includes any and all information relevant and material to my application for a fit and proper test. This application includes information pertaining to any relevant

consideration as set out in section 109C of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.

7. I am aware that it is an offence and/or grounds for refusal of my application for a certificate of fitness granted on foot of the within application for me and/or the proposing entity:

(a) to knowingly or recklessly provide false or misleading information and/or

(b) to make a false or misleading statement (including the withholding by me of relevant information) in the within application for a certificate of fitness

8. I am aware that is grounds for refusal of my application for a certificate of fitness granted on foot of the within application for me and/or the proposing entity by failing to inform and/or withholding from the Minister for Justice (Anti-Money Laundering Compliance Unit) any details of any change in circumstances/new information which is relevant and/or material to the status as an approved person may lead to the rejection of this application.

Signature:

Date:

Position/Proposed Position: _____

SECTION 1
DETAILS OF THE PERSON PROPOSED

PLEASE TYPE OR WRITE CLEARLY. APPLICATIONS WHICH CANNOT BE READ WILL BE RETURNED. If typing, handwritten signature or a qualified electronic signature (as recognised under EU Electronic Identification and Trust Services for Electronic Transactions in the Internal Market Regulation 2014 (“eIDAS”) are still required).

All fields must be completed

A: Full Legal Name of the Applicant

First Name:
Surname:
Any other names or previous names:

B: Contact Details

Current Address:	
Email:	
Landline:	
Mobile:	

C: Other Details

Date of Birth:	
Nationality:	
Position:	
Are you the beneficial owner?	

SECTION 2
PROBITY, GOOD REPUTATION AND CHARACTER

Please tick Yes or No to each of the following questions. If the response to any question below is Yes, full details should be given on a separate sheet and referenced to the appropriate question.

1. Have you been convicted in the State or elsewhere, of any offence under: Yes No

(a) an enactment relating to excise duty on betting;

(b) the Gaming and Lotteries Acts 1956 to 2013;

(c) section 1078 of the Taxes Consolidation Act 1997;

(d) the Criminal Justice (Theft and Fraud Offences) Act 2001, or

(e) the Criminal Justice (Money Laundering and Terrorist Financing) Acts 2010 as amended.

2. Have you previously been convicted of an offence under the law of a place (other than the State)— Yes No

(a) consisting of an act or omission that, if committed in the State, would constitute an offence referred to in 1(a) to 1(e) above), or

(b) relating to the conduct of gambling.

3. Have you previously been refused a certificate of fitness? Yes No

4. If you have previously been refused a certificate of fitness, did you appeal the refusal to the District Court?

Yes No

5. If you have previously been refused a certificate of fitness and appealed to the District Court, was the appeal successful?

Yes No

Signature: _____

Date _____

Position/Proposed Position: _____



An Roinn Dlí agus Cirt
Department of Justice

Department of Justice

PRIVATE MEMBERS' CLUB

**Application for a Certificate of Fitness and Probity - Persons who are
NOT Ordinarily Resident in the State**

Privacy Notice

Introduction

1. The data provided in this form is collected by the Anti-Money Laundering Compliance Unit (AMLCU), a Division of the Department of Justice (DoJ). The data controller for the provided information is the Department of Justice. The data controller's contact details are:

Anti-Money Laundering Compliance Unit (AMLCU),
Department of Justice,
51 St. Stephen's Green,
Dublin 2, D02 HK52.

Email: antimoneylaundering@justice.ie

How will your personal data be used?

2. We may use the personal data you provide in this form for the following purpose(s):
 - To make a determination on an applicant's fitness and probity under sections 109A, 109B, 109C, 109D and 109E of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended;
 - To register details of persons effectively directing Private Members' Clubs under section 109 of the Act;
 - To place a list of registered Private Members' Clubs on the AMLCU's website;
 - To contact a registered Private Members' Club with regard to obligations provided for in the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended;
 - To report suspicions of money laundering or terrorist financing to

An Garda Síochána (AGS) and the Revenue Commissioners;

- To use information provided in applications for statistical reporting on an anonymised basis.

Legal Basis for processing your Personal Data

3. Our legal basis for collecting and processing this data is as follows:

- sections 109, 109A, 109B, 109C, 109D, and 109E of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended.

Security of Personal Data

4. The personal data provided here will be stored securely on DoJ IT servers. It **may be shared**, where appropriate, with any of the following third parties:

- An Garda Síochána,
- The Revenue Commissioners and/or
- Companies Registration Office.

Contact for Queries

5. The contact for any queries in relation to this form may be sent via letter addressed to Anti-Money Laundering Compliance Unit, Department of Justice, 51 St. Stephen's Green, Dublin 2, D02 HK52 or via the following email address: antimoneylaundering@justice.ie

How long will Personal Data be retained?

6. This data will be retained by the Department of Justice for a period of 30 years in accordance with our retention schedule and referred thereafter to the Director of National Archives for appraisal under the National Archives Act 1986.

How to Request a copy of your Personal Data

7. You can request a copy of the personal data by completing a Subject Access Request (SAR) form, available:

- at http://www.justice.ie/en/JELR/Pages/Data_Protection or
- from the Department Protection Support or Compliance Office (DPSCO) at the address below.

Forward the completed form by email to subjectaccessrequests@justice.ie or by post to the Department of Justice Data Protection Officer (DPO) at the address below. You will be required to verify your identity before the data can be forwarded to you. The time limit for responding to a SAR commences once your identity has been verified.

Your Rights in relation to your Personal Data

8. You have the right to rectify any inaccuracies in your data. To do this you should write to Anti-Money Laundering Compliance Unit, Department of Justice, 51 St. Stephen's Green, Dublin 2, D02 HK52, email address antimoneylaundering@justice.ie documenting the inaccuracies, which need to be rectified. The right to rectification is not absolute and each request will be considered on its own merits.
9. You have the right, where appropriate, to obtain erasure of your data and/or a restriction on processing of your data as well as the right to object to the processing of your data. The right to erasure, restriction and/or objection is not absolute and each request will be considered on its own merits.
10. You have the right to lodge a complaint with the Data Protection Commission (DPC). You can contact the DPC by webforms on their website www.dataprotection.ie or by post to:

21 Fitzwilliam Square South
Dublin 2
D02 RD28

Further details in relation to your data protection rights can be found in the Department of Justice Data Protection Policy available at http://www.justice.ie/en/JELR/Pages/Data_Protection

Contact the DPO

You can contact the Data Protection Officer for the Department of Justice
by post at:

The Data Protection Officer,
Department of Justice,
51 St. Stephen's Green,
Dublin 2, D02 HK52.

or

by email:

dataprotectioncompliance@justice.ie

Completed application forms should be returned to

Anti-Money Laundering Compliance Unit,
Department of Justice,
St. Stephen's Green,
Dublin 2, DO2 HK52.

Schedule 4

Certificate of Fitness and Probity in accordance with section 109B of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.

Name: _____

Name of Private Members Club: _____

Valid from _____ **to** _____

Issued by (please print name): _____

Signature: _____

Date: _____

Position: _____



Official Stamp

Once complete, a copy of this certificate should be sent by the applicant to the Anti-Money Laundering Compliance Unit in the Department of Justice for the purposes of registering the designated person with the Minister for Justice under section 109 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended.

*Anti-Money Laundering Compliance Unit,
Department of Justice,
St. Stephen's Green,
Dublin 2, DO2 HK52.*

Web: www.amlcompliance.ie

Email: antimoneylaundering@justice.ie



GIVEN under my Official Seal,
1 June, 2022.

HELEN MCENTEE,
Minister for Justice.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
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D08 XAO6

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