

Reference No: E109/31/25; **Date:** 22/08/1929

Circular 34/1929:- Procedure in cases of fraud of theft by officials.

A Dhuine Uasail,

I am directed by the Minister for Finance to inform you that circumstances have recently come to his notice from which it appears that Departments are uncertain of the procedure to be followed where an official has committed a criminal offence involving Government funds or property, and he accordingly considers it desirable to state for future guidance the course that should be adopted in cases of this kind.

2. As you are aware, the general practice is not to require Government officials entrusted with the handling of State funds or property to give personal security for the proper performance of their duties, but, even if such security were taken, it appears to the Minister for Finance that the exposure and prosecution of persons wilfully defaulting or attempting to default with public monies or property is essential in the public interest as a deterrent against the occurrence of further similar irregularities. Such considerations as compassion for the defaulter, or expense of the prosecution, or fear of reflection on the administration can never be admitted as determining whether steps for a prosecution should be instituted. Nor can an offer by the official concerned, or any person on his behalf, to make good a loss, or the recovery of the amount by deduction from salary or otherwise, be regarded as a reason for waiving prosecution. Action by the Department concerned should not be delayed on any of these grounds once there is evidence of guilt which would appear to support a charge and care should be taken to ensure that nothing is done, e.g., by acceptance of repayment, in circumstances that might result in making prosecution impracticable or inadvisable where prosecution should be instituted.

3. I am accordingly directed by the Minister to state that when default by an official is discovered the facts should be immediately reported (with all documentary and other evidence available) to this Department in person by a responsible representative of the Department concerned without waiting for the issue of formal official communications, which the action taken can be covered later. This action should not be delayed for the purpose of obtaining evidence of further default if what appears to be sufficient evidence is already available, or of ascertaining the total extent of the loss involved. The Minister for Finance, on consideration of the facts furnished, will direct at once whether the case is to be reported to the Chief State Solicitor. Where the Minister decides that that course should be taken the facts shall be immediately conveyed by the Department concerned (again by personal representation in the first instance) to the Chief State Solicitor with a request that he may direct the arrest and prosecution of the defaulter if he considers that there is sufficient evidence to support a criminal charge. The view taken by the Chief State Solicitor on this point and the subsequent action if the case should, in due course, be reported to the Minister for Finance.

4. On the question of writing off of loss due to theft or default by an official the Minister desires specially to direct the attention of accounting officers to the fact that generally it is not his intention to sanction that course unless the procedure above directed has been properly followed.

5. In this connection I am to request that where persons other than the official directly involved have shared responsibility for the loss e.g. through neglect of duty, the application for authority for the write-off should state the facts in this regard and the action taken to deal with those individuals.

6. In addition to the considerations referred to above a loss by fraud may suggest the need for investigating possible defects in the existing system of check and accounting, and for making changes which would obviate a recurrence of the irregularities. This investigation should take place as soon as circumstances permit, and I am to state that the Minister for Finance will require to be satisfied that it has

been sufficiently carried out and resulting appropriate action taken in every case, even where a writing off of a loss is not actually involved.

7. The directions conveyed in this Circular may not cover cases of fraud of every kind that may arise. Where the circumstances suggest a doubt as to the action to be taken the Minister for Finance will be glad to consider any representations the Head of the Department may desire to make in the matter.

8. In particular, the Minister directs me to impress upon all Departments in regard to occasions of discovery of fraud or attempt at fraud by the official, the necessity for prompt action, the neglect of which may lead to the escape of defaulters against whom criminal proceedings should be taken.

Mise, le meas,

H.P. Boland