
Stamp Duties Consolidation Act 1999

Part 10: Enforcement

10.1 SECTION 127 OF THE SDCA	1
10.2 SECTION 129 OF THE SDCA	1
10.3 SECTION 134A OF THE SDCA	1

10.1 Section 127 of the SDCA

Terms on which instruments not duly stamped may be received in evidence

This section provides that an unstamped instrument may not be used in evidence or for any purpose except as evidence in criminal proceedings by the Revenue Commissioners to recover stamp duty.

10.2 Section 129 of the SDCA

Penalty for enrolling inadequately stamped forms

Every company is obliged by law to keep a Share Register, which lists the names of all shareholders and the numbers and classes of the shares held. The Share Register is maintained by the Company Secretary. The Company Secretary may not register a change of shareholder on foot of an inadequately stamped share/stock transfer form. Under section 129 of the SDCA, the company secretary may be fined €30 for each such registration.

Because of this legal imposition on the company secretary, registration can be refused and the new shareholder may be instructed to have the share/stock transfer form adjudicated.

10.3 Section 134A of the SDCA

Penalties

This section provides for a penalty of €1,265 plus a tax geared further penalty where a person acts deliberately or carelessly, in relation to—

- (a) the execution of an instrument in which all the facts and circumstances affecting the liability of the instrument to duty are not disclosed in the instrument or in a statement to which *section 8(2)* relates,
 - (b) the entering of an incorrect electronic instruction in the CREST system,
 - (c) the delivery of an incorrect electronic or paper return under the e-stamping system,
- which gives rise to an underpayment in amount of stamp duty due and payable. The section provides for a specific level of penalty to apply depending on whether the category into which the person's duty default falls is deliberate or careless. The section puts the practices as regards the level of tax geared penalties sought in Revenue audits and investigations by reference to the Code of Practice for Revenue Auditors on a statutory footing.

The section applies to penalties incurred on or after 24 December 2008.