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ECONOMIC AND MONETARY UNION ACT, 1998

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ECONOMIC AND MONETARY UNION ACT, 1998

AN ACT TO MAKE PROVISION IN RELATION TO THE INTRODUCTION OF THE EURO, TO PROVIDE FOR THE DESIGN, ISSUE AND SALE OF COMMEMORATIVE LEGAL TENDER COINAGE AND TO PROVIDE FOR RELATED MATTERS. [13th July, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Economic and Monetary Union Act, 1998. Short title and commencement.

(2) *Part II* 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 or different provisions of this Act.

2.—(1) In this Act “the Minister” means the Minister for Finance. Interpretation (generally).

(2) In this Act—

(a) a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended, and

(b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended.

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Pt.I
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, be paid out of moneys provided by the Oireachtas except where otherwise provided for in this Act.

Laying of
regulations and
orders.

4.—Every regulation and order made under this Act (other than an order under *section 1(2), 9 or 15*) 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 or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

PART II

Economic and Monetary Union

Chapter I

General

Interpretation
(*Part II*).

5.—(1) In this Part—

“the Act of 1969” means the Decimal Currency Act, 1969;

“conversion rate” means the irrevocably fixed conversion rate adopted for the currency of each participating Member State by the Council according to the first sentence of Article 109 I (4) of the Treaty;

“the Council Regulation of 1998” means Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro⁽¹⁾;

“euro unit” means the currency unit referred to in the second sentence of Article 2 of the Council Regulation of 1998;

“the Irish pound unit” means the unit of the Irish pound as duly defined on the 31st day of December, 1998;

“participating Member States” means Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Austria, Portugal and Finland;

“transitional period” means the period beginning on the 1st day of January, 1999, and ending on the 31st day of December, 2001;

“the Treaty” means the Treaty Establishing the European Community done at Rome on the 25th day of March, 1957 (as amended by the Treaty on European Union done at Maastricht on the 7th day of February, 1992).

(2) A word or expression which is used in this Act and is also used in the Council Regulation of 1998 has, unless the context otherwise requires, the same meaning in this Act as it has in that Regulation.

⁽¹⁾ O.J. No. L139 of 11 May 1998, p.1.

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1998.

Chapter II

Pt. II

Euro Currency System

6.—(1) The Central Bank Act, 1989, is hereby amended by the substitution for section 24 (as amended by section 13 of the Central Bank Act, 1998) of the following: Introduction of euro currency system.

“24.—By virtue of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro, from the 1st day of January, 1999—

(a) the currency of the State is the euro, and

(b) the Irish pound unit (within the meaning of the *Economic and Monetary Union Act, 1998*) is a subdivision of the euro.”.

(2) The Act of 1969 is hereby amended in section 2 by the substitution of the following for subsection (2):

“(2) The Irish pound and the penny shall be legal denominations or units of money in Irish currency.”.

7.—During the transitional period and notwithstanding section 25 of the Central Bank Act, 1989, contracts may, by virtue of Article 8 of the Council Regulation of 1998, be made, entered into, done and executed in the euro unit notwithstanding the fact that notes and coins denominated in euro or in cent are not in circulation. Contracts during transitional period.

Chapter III

Legal Tender and Legal Tender Amounts

8.—In this Chapter “earlier operative date” has the meaning assigned by *section 9*. Definition (Chapter III).

9.—(1) Notes and coins denominated in Irish pounds or multiples or subdivisions thereof shall retain legal tender status until the 30th day of June, 2002, or such earlier date (in this Chapter referred to as the “earlier operative date”) as the Minister may specify by order. Legal tender status of notes and coins denominated in Irish pounds.

(2) The Minister may by order amend or revoke an order under this section before the earlier operative date.

(3) Where it is proposed to make an order under this section, including any order amending or revoking an order to which *subsection (1)* relates, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(4) Section 118(3) of the Central Bank Act, 1989, is hereby repealed with effect from the earlier operative date or, where there is no such date, the 30th day of June, 2002.

10.—(1) No person, other than the Central Bank of Ireland and such persons as may be designated by the Minister by order, shall be obliged to accept more than 50 coins denominated in euro or in cent in any single transaction. Legal tender amounts of coins.

(2) The following provisions are hereby repealed with effect from the earlier operative date or, where there is no such date, the 30th day of June, 2002:

(a) sections 8 to 10 of the Act of 1969,

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1998.

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(b) section 15 of the Decimal Currency Act, 1970.

(3) The Minister may by order amend or revoke an order under this section.

Provision and
issuance of coins.

11.—(1) The Minister may provide coins denominated in euro or in cent and may set out by order the technical specifications, dimensions, composition and design or designs of such coins subject to such specifications complying with the denominations and technical specifications which the Council lays down in accordance with the second sentence of Article 105a(2) of the Treaty.

(2) Coins provided under *subsection (1)* shall be issued by the Minister through the Central Bank of Ireland, subject to approval by the European Central Bank of the volume of the issue and, with effect from the commencement of this provision, coins issued under *Part III* shall be subject to such approval.

(3) Sections 3, 4 and 5 of the Act of 1969 are hereby repealed with effect from the earlier operative date or, where there is no such date, the 30th day of June, 2002.

(4) The Minister may by order amend or revoke an order under this section.

Amendment of
section 14
(prohibition of
making or issuing of
coins) of Act of
1969.

12.—Section 14 of the Act of 1969 is hereby amended by the substitution of the following for subsection (1):

“(1) Except coins issued under this Act, the Decimal Currency Act, 1990, and the *Economic and Monetary Union Act, 1998*, and coins denominated in euro or in cent and issued by one or more of the other participating Member States, no piece of metal or mixed metal of any purported nominal face value whatsoever shall be made or issued in the State as a coin or a token for money or as purporting (whether expressly or by implication) that the holder thereof is entitled to demand any value denoted thereon.”.

Expenses of
provision of coins.

13.—All sums required for the provision of coins denominated in euro or in cent and provided under *section 11* shall be defrayed out of the general fund of the Central Bank and debited therein to the currency reserve.

Proceeds of issue of
coins.

14.—The proceeds of every issue of coins denominated in euro or in cent and provided under *section 11* shall be paid into the general fund of the Central Bank of Ireland and carried therein to the credit of the currency reserve.

Chapter IV

Withdrawal of Legal Tender Notes and Coins

Calling in of coins.

15.—(1) Subject to *subsection (2)*, the Minister may by order call in coins of any particular composition, date or denomination—

(a) issued under the repealed enactments, or

(b) issued under the Decimal Currency Acts, 1969 to 1990, or

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1998.

(c) issued under this Act, or

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(d) circulating in the State and issued by one or more of the other participating Member States which are comparable to coins issued under this Act,

and the Minister may by order amend or revoke an order under this section.

(2) The Minister shall not make an order under this section which relates to matters within the competence of the European Central Bank by or under paragraph 2 of Article 105a of the Treaty except with the consent of that Bank.

(3) The following shall apply in respect of every order under *subsection (1)*:

(a) the order shall provide for its coming into operation on a particular date (in this subsection referred to as the “withdrawal date”) not being earlier than 6 months after the date of its making,

(b) the order shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House before the withdrawal date, the order shall be annulled accordingly.

(4) Section 12 of the Act of 1969 is hereby repealed.

(5) In this section “repealed enactments” means the Coinage Act, 1926, (including that Act as amended by the Emergency Powers (No. 140) Order, 1942, and by sections 58 and 60 of the Central Bank Act, 1942) or the Coinage Act, 1950.

16.—The Act of 1969 is hereby amended by the substitution of the following for section 11:

Redemption of coins.

“11.—The Central Bank may, if it thinks fit so to do, redeem coins—

(a) issued under the repealed enactments, or

(b) issued under the Decimal Currency Acts, 1969 to 1990,
or

(c) issued under the *Economic and Monetary Union Act, 1998*, or

(d) circulating in the State and issued by one or more of the other participating Member States which are comparable to coins issued under the *Economic and Monetary Union Act, 1998*,

and all sums required for that purpose shall be defrayed out of the general fund of the Central Bank and debited therein to the currency reserve.”.

17.—Section 15 of the Act of 1969 shall apply to coins issued under this Act and coins circulating in the State and issued by one or more of the other participating Member States which are comparable to coins issued under this Act.

Prohibition of melting down of coins.

[No. 38.] *Economic and Monetary Union Act*, [1998.]
1998.

Pt. II
Redemption of
legal tender notes.

18.—Section 121 of the Central Bank Act, 1989, is hereby amended by the addition of the following subsection after subsection 3:

“(4) The Central Bank may continue to redeem Irish pound notes issued under section 44 of the Central Bank Act, 1971, or any other note which was, immediately prior to the earlier operative date (within the meaning assigned by *section 9* of the *Economic and Monetary Union Act, 1998*) or, where there is no such date, the 30th day of June, 2002, a legal tender note in the State and issued under the Currency Act, 1927, or under any subsequent Act.”.

Calling in of legal
tender notes.

19.—Section 122 of the Central Bank Act, 1989, is hereby amended by the substitution of “with the authority of the European Central Bank and subject to such conditions as to time, place, manner and order of presentation as the Bank thinks fit” for “subject to such time, place, manner and order of presentation as it thinks fit” and the said section, as so amended, is set out in the Table to this section.

TABLE

122.—The Bank may, with the authority of the European Central Bank and subject to such conditions as to time, place, manner and order of presentation as the Bank thinks fit, call in any legal tender notes issued under this Act, or under the Currency and Central Bank Acts, 1927 to 1971, or any of those Acts, on the terms of paying for such notes on presentation in the same manner as if they were being redeemed under section 121.

Chapter V

Miscellaneous

Copyright in euro
notes and coins.

20.—The Copyright Act, 1963, is hereby amended in section 57 by the insertion of the following subsections after subsection (1):

“(1A) Subsection (1) of this section and Part II of this Act are without prejudice to the copyright of the European Central Bank in legal tender notes denominated in the euro unit.

(1B) This section shall apply to any national face of coins issued under *section 11* of the *Economic and Monetary Union Act, 1998*.”.

Modification of
forms.

21.—(1) Any form set out in a statute or statutory instrument passed or made before the 1st day of January, 2002, and containing a reference to a sum of money in the Irish pound unit (whether expressly or by reference to section 11 of the Decimal Currency Act, 1970) may be modified by, or with the express permission of, the authority issuing it so as to show also the corresponding amount in the euro unit in accordance with the conversion rate.

(2) Any form set out in a statute or statutory instrument passed or made before the 1st day of January, 2002, which is designed to accommodate references to sums of money wholly or partly in the Irish pound unit (whether expressly or by reference to section 11 of the Decimal Currency Act, 1970) may be modified by, or with the express permission of, the authority issuing it so as to enable it to accommodate references to sums of money wholly or partly in the euro unit.

(3) *Subsections (1) and (2)* are without prejudice to any other provision authorising the modification of any such form.

[1998.] *Economic and Monetary Union Act*, [No. 38.]
1998.

22.—As of the 1st day of January, 1999, the rate known as the Dublin Interbank Offered Rate shall be replaced by the rate known as the Euro Interbank Offered Rate.

Pt.II
Interbank offered
rate.

23.—(1) The Minister may by order, in respect of one or more than one date and under such terms and conditions as the Minister determines, redenominate into the euro unit all or part of the outstanding debt duly issued by or on behalf of the State under the law of the State and denominated in the Irish pound unit, and the Minister may by order amend or revoke an order under this subsection but shall not revoke an order after its effective date.

Redenomination of
outstanding debt
into euro.

- (2) (a) (i) The Minister may redenominate into the euro unit all or part of the outstanding debt duly issued by or on behalf of the State and denominated in any national currency unit, where the Member State in the national currency unit of which the debt is denominated has redenominated into the euro unit all or part of its general government debt denominated in its national currency unit.
- (ii) The terms and conditions in accordance with which the Minister may effect a redenomination under *subparagraph (i)* shall be those laid down in the law of the Member State under which the debt was issued.
- (iii) Prior notice in the *Iris Oifigiúil* of an intention to effect a redenomination under *subparagraph (i)* shall be given by the Minister at least one month in advance of such redenomination.
- (b) An issuer of debt other than the State may, under the terms and conditions laid down in an order under *subsection (1)*, as if such issuer were the State, redenominate into the euro unit bonds and other forms of securitised debt negotiable in the capital markets, and money market instruments issued by them under the law of the State and denominated in any national currency unit, but only where the Member State in the national currency unit of which the debt is denominated has redenominated into the euro unit all or part of its general government debt denominated in its national currency unit.
- (3) (a) Where, in respect of its borrowing, a State body and all other relevant parties to a facility agreement, denominated in any national currency unit, agree to redenominate into the euro unit the currency of the agreement and agree to redenominate the amounts specified therein and to adjust them to convenient euro-denominated sums, the consent of either or both the Minister and any other Minister of the Government which, but for this subsection, would be duly required shall not be required to such adjustments or to any other consequential adjustments to the agreement concerned arising therefrom or pursuant to the introduction of the euro but only if the aggregate amount of borrowings by the State body concerned, including borrowings by way of negotiable debt instruments, does not exceed the limit (if any) on such borrowings to which a Minister of the Government has already consented.

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1998.

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(b) Where the Minister has issued a guarantee in respect of the borrowings of a State body and the contract in respect of those borrowings is amended pursuant to *paragraph (a)*, the consent of the Minister and of any other Minister of the Government to an equivalent change in the guarantee shall not be required but only if the aggregate amount of the borrowings of the State body concerned, including borrowings by way of negotiable debt instruments, which are already guaranteed by the Minister is not exceeded.

(c) In this section “State body” means a body whose borrowing is subject to the consent of a Minister of the Government.

Redenomination of
share capital.

24.—(1) In this section and *sections 25 and 26*—

“articles of association” in the case of a company which is not a company within the meaning of section 2(1) of the Companies Act, 1963, includes its charter, bye-laws or other constituent documents;

“company” means a company within the meaning of section 2(1) of the Companies Act, 1963, and any body corporate within the meaning of section 377(1) of that Act;

“share” includes share of stock in share capital of a company.

(2) (a) Where the share capital of a company or any part of such capital is redenominated into euro after the transitional period under Article 14 (which relates to the reading, at the end of the transitional period, of references in legal instruments to national currency units as references to the euro unit) of the Council Regulation of 1998, such redenomination shall be effected at the whole or any part of the total issued or to be issued share capital, including each class of the foregoing (where any separate classes exist).

(b) The redenominated nominal share par value shall be calculated by dividing the total redenominated amount determined in accordance with *paragraph (a)* by the total number of shares authorised, issued or to be issued, or in the relevant class, as appropriate, so that the nominal value is expressed in unrounded euro amounts.

Transitional
provisions relating
to *section 24*.

25.—(1) This section shall apply—

(a) to every company having a share capital, and

(b) notwithstanding anything to the contrary contained in the Companies Acts, 1963 to 1990, or in the memorandum or articles of association of a company to which this section applies.

(2) Where the whole or part of the total authorised share capital of a company, the total issued share capital or to be issued share capital of a company including any class of the foregoing (where any separate classes exist) is, in its memorandum or articles of association, expressed in Irish pounds or in the currency of another participating Member State immediately before the 1st day of January, 1999, such share capital, class or part thereof may be redenominated into the euro unit in accordance with *subsection (3)*.

[1998.] *Economic and Monetary Union Act*, [No. 38.]
1998.

(3) (a) Subject to *subsection (5)* and *paragraph (b)*, the shareholders of a company may by ordinary resolution— Pt.II S.25

(i) passed at a general meeting, or

(ii) if the articles of association of the company so permit, in writing signed by all the members of the company for the time being entitled to attend and vote on such resolution in accordance with section 141(8) of the Companies Act, 1963,

determine that the whole or part of the total authorised share capital of a company, the total issued share capital or to be issued share capital of a company including any class of the foregoing shall be redenominated into the euro unit at the conversion rate and converted in accordance with Article 4, and rounded in accordance with Article 5, of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro.

(b) The redenominated nominal share par value shall be calculated by dividing the total redenominated amount determined in accordance with *paragraph (a)* by the total number of shares authorised, issued or to be issued, or in the relevant class, as appropriate, so that the nominal value is expressed in unrounded euro amounts.

(4) A reduction in the nominal value of issued share capital under this section shall be deemed not to be a reduction of share capital within the meaning of the Companies Acts, 1963 to 1990.

(5) Any redenomination pursuant to a shareholders' resolution under *subsection (3)* shall not in any way change the rights, privileges or advantages that were held by, or obligations, restrictions or limitations imposed on, shareholders prior to the passing of the resolution in relation to dividends, voting at meetings or other matters.

(6) A company shall send a printed copy of any resolution under *subsection (3)* to the Registrar of Companies within 15 days of its passing and the Registrar shall duly record every such resolution.

(7) (a) Where a company fails to send a printed copy of any resolution under *subsection (3)* to the Registrar of Companies in accordance with *subsection (6)*, it shall be guilty of an offence and be liable, on summary conviction, to a fine not exceeding £250.

(b) Where an offence under this subsection is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person being a director, secretary or other officer of the body corporate, or any other person who was acting or purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(8) This section, other than *subsections (6)*, *(7)* and this subsection, shall cease to have effect from the 1st day of January, 2002.

[No. 38.] *Economic and Monetary Union Act*, [1998.]
1998.

Pt.II
Renominalisation of
shares.

26.—(1) This section shall apply—

- (a) to every company having a share capital, and
- (b) notwithstanding anything to the contrary contained in the Companies Acts, 1963 to 1990, or in the memorandum or articles of association of a company to which this section applies.

(2) Following any redenomination of share capital or any part thereof into the euro unit pursuant to *section 25*, or where at the end of the transitional period Article 14 (which relates to the reading, at the end of the transitional period, of references in legal instruments to national currency units as references to the euro unit) of the Council Regulation of 1998 applies, the authorised and issued, or to be issued, share capital and the nominal par value of shares in a company may be further adjusted to achieve nominal share values considered appropriate to the then share price in the euro unit (in this section referred to as “renominalisation”) in accordance with *subsections (3) and (4)* but such adjustments shall not reduce the nominal value of any share to zero.

(3) A company to which this section applies may by ordinary resolution—

- (a) passed by the shareholders in general meeting, or
- (b) if the articles of association so permit, in writing signed by all the members of the company for the time being entitled to attend and vote on such resolution in accordance with *section 141(8)* of the Companies Act, 1963,

alter the provisions of the memorandum and articles of association to effect renominalisation, provided there is an appropriate adjustment in distributable reserves (being profits available for distribution to which *section 45(2)* of the Companies (Amendment) Act, 1983, relates) or through the introduction of additional capital, which shall be properly accounted for, and where there is not a decrease in share capital.

(4) (a) Where the result of the renominalisation by virtue of *subsection (2)* would be a decrease in the whole or part of the authorised and issued share capital, or in a class of shares, a special resolution shall be required to be passed—

- (i) in the case of the authorised and issued share capital, by the shareholders, or
- (ii) in the case of a class of share, by the shareholders of the class,

to the effect that there shall be transferred to a fund to be known as the Capital Conversion Reserve Fund, an amount equal to the aggregate amount of the capital reduced as a result of the renominalisation in accordance with *subsection (2)*, and that the amount so transferred does not represent more than 10 per cent of the reduced share capital.

- (b) The provisions of the Companies Act, 1963, which relate to the reduction of the share capital of a company shall, except as provided in this section, apply as if the Capital Conversion Reserve Fund were paid up share capital of the company concerned.

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1998.

(5) Any renominatisation of the nominal value of issued share capital under this section shall be deemed not to be a reduction of share capital within the meaning of the Companies Acts, 1963 to 1990. Pt.II S.26

(6) Any renominatisation of shares under this section shall not of itself affect or vary the obligation of a shareholder to pay the amount, if any, unpaid on such shares.

(7) Any renominatisation under this section shall not in any way change the rights, privileges or advantages that were held by, or obligations, restrictions or limitations imposed on, shareholders prior to the passing of the resolution in relation to dividends, voting at meetings or other matters.

(8) A company shall send a printed copy of any resolution under *subsection (3) or (4)* to the Registrar of Companies within 15 days of the passing of any such resolution and the Registrar shall duly record every such resolution so sent.

(9) (a) Where a company fails to comply with *subsection (8)* it shall be guilty of an offence and be liable, on summary conviction, to a fine not exceeding £250.

(b) Where an offence under this subsection is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person being a director, secretary or other officer of the body corporate, or any other person who was acting or purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(10) The Capital Conversion Reserve Fund may, notwithstanding any other provision of this section, be applied by the company concerned in paying up unissued shares of that company (other than redeemable shares) to be allotted to shareholders of the company as fully paid bonus shares.

(11) This section, other than *subsections (8), (9), (10)* and this subsection, shall cease to have effect from the 30th day of June, 2003.

27.—The Central Bank Act, 1989, is hereby amended in section 134 —

Amendment of
Central Bank Act,
1989.

(a) by the insertion of the following subsection after subsection (4):

“(4A) No direction under this section shall be made by the Minister in respect of the performance of any function or duty of the Bank, or the exercise of any power by the Bank, required by or under the Treaty or the Statute.”,

and

[No. 38.] *Economic and Monetary Union Act*, [1998.]
1998.

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(b) by the substitution of the following subsection for subsection (7):

“(7) In this section—

‘foreign currency’ has the same meaning as it has in the Exchange Control Act, 1954;

‘the Treaty’ and ‘the Statute’ have the same meanings, respectively, as are assigned to them for the purposes of this Act by subsection (8) (inserted by the Central Bank Act, 1998) of section 23.”.

Amendment of
Central Bank Act,
1997.

28.—The Central Bank Act, 1997, is hereby amended—

(a) in section 10, by the addition of the following subsection after subsection (2):

“(3) In the performance of any function or duty by the Bank, or the exercise of any power by the Bank, required by or under the Treaty or the Statute, subsections (1) and (2) shall not apply.”,

and

(b) in section 13, by the insertion of the following subsection after subsection (2):

“(2A) (a) In the performance of any function or duty by the Bank, or the exercise of any power by the Bank, required by or under the Treaty or the Statute, subsections (1)(b) and (2) shall not apply.

(b) In this subsection ‘the Treaty’ and ‘the Statute’ have the same meanings, respectively, as are assigned to them for the purposes of this Act by subsection (2) (inserted by the Central Bank Act, 1998) of section 24.”.

Power to make
regulations.

29.—(1) The Minister may make regulations for enabling this Part to have full effect.

(2) Regulations under this Part may contain such incidental, supplementary and consequential provisions as appear to the Minister to be expedient for any purpose of this Part.

PART III

Commemorative Coinage

Design, etc., issue
and sale of coins.

30.—(1) The Minister may provide coins of a commemorative nature of such denominations, technical specifications, dimensions, composition and design or designs as the Minister may determine.

(2) Coins provided under this Part may be issued and put on sale to the public by the Minister through the Central Bank of Ireland.

[1998.] *Economic and Monetary Union Act*, [No. 38.]
1998.

31.—The price at which any type of coin is put on sale under *section 30* shall be determined by the Central Bank of Ireland and different prices may be determined—

Pt.III
Determination
of price.

(a) for different finishes applied to, or strikings of, the type of coin, and

(b) taking account of packaging (if any) or different packaging supplied with the type of coin,

but no price shall be so determined at below the face value of the coin.

32.—A tender of coins issued under this Part shall be legal tender subject to any general limitation as to the number of coins being legal tender for any single transaction.

Commemorative
coins to be legal
tender.

33.—(1) All sums required for the provision and issuance of coins provided under this Part shall be defrayed out of the general fund of the Central Bank of Ireland and debited therein to the currency reserve.

Payments into and
out of general fund
of Central Bank of
Ireland.

(2) The proceeds of every issue of coins provided under this Part shall be paid into the general fund of the Central Bank of Ireland and carried therein to the credit of the currency reserve.

34.—Section 57 of the Copyright Act, 1963, shall apply to coins issued under this Part.

Copyright.



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ECONOMIC AND MONETARY UNION ACT, 1998

EXPLANATORY MEMORANDUM

[This Memorandum is not part of the Act and does not purport to be a legal interpretation]

General

The purpose of this Act is to provide for certain matters relating to the introduction of the single currency, the euro. In particular, the Act declares that, by virtue of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro⁽¹⁾, from 1 January 1999 the currency of the State will be the euro. It also removes incompatibilities between Irish monetary law and the EU legal framework for the use of the euro, which comprises the above Regulation and Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽²⁾; it gives effect to enabling provisions in the EU legal framework, for example in relation to the redenomination into euro of outstanding Government debt; and it facilitates companies which wish to redenominate their capital structure into euro before the final changeover to the euro on 1 January 2002. The Act also provides for the design, issue and sale of commemorative legal tender coinage.

Provisions

Section 1 contains the short title and commencement provisions.

Section 2 sets out how references in the Act are to be interpreted.

Section 3 is a standard provision concerning expenses incurred in administration.

Section 4 deals with the laying of regulations and orders before the Houses of the Oireachtas.

Section 5 defines certain terms used in *Part II* of the Act. The section also provides that, unless the context otherwise requires, words or expressions used in the Act which are also used in Council Regulation (EC) No 974/98 have the same meaning in the Act as they have in the Regulation.

Section 6 replaces section 24 of the Central Bank Act, 1989, with a statement declaring that by virtue of Council Regulation (EC) No 974/98, from 1 January 1999 the currency of the State will be the euro and (until 31 December 2001) the Irish pound unit will continue to exist as a subdivision of the euro. The section also amends section 2 of the Decimal Currency Act, 1969, to reflect the fact that the euro

⁽¹⁾OJ L139, 11.5.98, p.1.

⁽²⁾OJ L162, 19.6.97, p.1.

and the cent will join the Irish pound and penny as legal denominations of the currency of the State from 1 January 1999.

Section 7 confirms that contracts may be denominated in euro during the transitional period by virtue of Council Regulation (EC) No 974/98, despite the fact that euro notes and coins will not be in circulation.

Section 8 defines a term used in *Chapter III*.

Section 9 gives the Minister for Finance power to shorten the maximum period of six months after the end of the transitional period on 31 December 2001 during which, under Council Regulation (EC) No 974/98, Irish pound notes and coins can remain legal tender. It is as yet too early to set the date for the withdrawal of legal tender status from Irish pound notes and coins, so the section does not itself set the date, but provides for it to be set by Ministerial order or, in the absence of such an order, for the date to be 30 June 2002. Before any such order can be made, a resolution approving it must be passed by each House of the Oireachtas. *Section 9* also provides for the repeal of section 118(3) of the Central Bank Act, 1989, which provides for the continuing legal tender status of Irish pounds, since Irish pounds will no longer be legal tender from 30 June 2002 or the earlier date set by the Minister.

Section 10 provides that no person, other than the Central Bank of Ireland and such persons as the Minister may designate by order, will be obliged to accept more than fifty euro coins in any single transaction. The section also provides for the repeal, from the date of withdrawal of legal tender status from Irish pound notes and coins, of sections 8, 9 and 10 of the Decimal Currency Act, 1969, and section 15 of the Decimal Currency Act, 1970.

Section 11 gives the Minister for Finance power to provide euro coins and to set out by order their technical specifications, which must comply with the technical specifications which the EU Council of Ministers lays down under the Treaty on European Union. The section also gives the Minister power to issue, through the Central Bank of Ireland, coins provided under this section. It confirms that, from 1 January 1999, the issuance of such coins will be subject to the approval by the European Central Bank of the volume of issue, as required by the Treaty, as will the issuance of commemorative coins provided under *Part III* of the Act. The section also provides for the repeal of sections 3, 4 and 5 of the Decimal Currency Act, 1969, which deal with the provision and issuance of Irish pound coins, with effect from the date of withdrawal of legal tender status from Irish pound notes and coins.

Section 12 extends to coins issued under this Act and comparable coins issued by other Member States participating in the euro area the prohibition on counterfeiting in the Decimal Currency Act, 1969.

Section 13 provides for defraying the cost of providing euro coins issued under *section 11* out of the general fund of the Central Bank of Ireland.

Section 14 provides for the paying into the general fund of the Central Bank of Ireland the proceeds of issue of euro coins issued under *section 11*.

Section 15 extends to coins issued under this Act, and to euro coins issued by other participating Member States which will be legal tender in Ireland, the power already available to the Minister for Finance under the Decimal Currency Act, 1969, to call in Irish coins by order. The section limits this power by requiring the consent of the European Central Bank to any order relating to matters within its competence under Article 105a(2) of the Treaty, which states that “Member States may issue coins subject to approval by the European Central Bank of the volume of the issue”.

Section 16 extends the Central Bank of Ireland’s existing power to redeem Irish pound coins to include coins issued under this Act and euro coins issued by other participating Member States which will be legal tender in Ireland.

Section 17 extends the existing prohibition on melting down of coins to include coins issued under this Act and euro coins issued by other participating Member States which will be legal tender in Ireland.

Section 18 amends section 121 of the Central Bank Act, 1989, which deals with the redemption of legal tender notes only, to provide that the Central Bank of Ireland may continue to redeem Irish pound notes after they have ceased to be legal tender.

Section 19 amends section 122 of the Central Bank Act, 1989, to provide that the Central Bank of Ireland must have the authority of the European Central Bank to call in notes.

Section 20 amends section 57 of the Copyright Act, 1963, to reflect the copyright of the European Central Bank in relation to euro notes, and the copyright of the Minister for Finance in relation to the national face of euro coins issued under *section 11* of this Act.

Section 21 provides that the issuing authority for statutory forms which contain references to sums in Irish pounds or are designed to accommodate references to such sums may change the forms, or allow them to be changed, to show also the corresponding amounts in euro or to accommodate references to sums in euro.

Section 22 states that from 1 January 1999, the Dublin Interbank Offered Rate (DIBOR) will be replaced by the Euro Interbank Offered Rate (EURIBOR).

Section 23 deals with the redenomination of outstanding debt into euro. *Subsection (1)* provides that the Minister for Finance may, by order, on such date or dates and under such terms and conditions as he or she determines, redenominate into euro all or part of the outstanding debt issued by or on behalf of the State under Irish law and denominated in Irish pounds.

Subsection (2) provides that the Minister for Finance may redenominate into euro any of the State’s debt issued in a currency to be replaced by the euro, provided that the Member State in the currency of which the debt is denominated has redenominated all or part of its national currency general government debt into euro. It also provides that the method of redenomination the Minister uses must be that laid down in the law of the Member State under which the debt was issued, and obliges the Minister to give notice in *Iris Oifigiúil* of his or her intention to effect a redenomination under the subsection. Finally, it permits issuers of debt other than the State to use the method of redenomination laid down by the Minister under the provisions of *subsection (1)* to redenominate into euro any negotiable

debt issued by them under the law of the State and denominated in any currency to be replaced by the euro.

Subsection (3) deals with facility agreements in respect of borrowing which State bodies have with financial institutions, where the State body concerned and all other relevant parties to the agreement agree to redenomination into the euro. It provides that, subject to certain conditions, where adjustments to such agreements are agreed among the parties thereto, there will be no need for these parties to obtain Ministerial consent to such adjustments, provided the aggregate amount of borrowings of the State body concerned does not exceed the limit (if any) for which Ministerial consent has already been obtained. The subsection provides for a similar waiver in relation to State guarantees.

Section 24 provides that redenomination of share capital from 1 January 2002 pursuant to Article 14 of Council Regulation (EC) No 974/98 must occur at the level of total share capital or any part of the total issued or to be issued share capital, that nominal share value in euro is to be calculated as the total share value divided by the number of shares and that the nominal share value is not to be rounded.

Section 25 provides that companies wishing to redenominate their share capital into euro during the transitional period (from 1 January 1999 to 31 December 2001) may do so provided that a resolution approving the redenomination is passed by shareholders. The section provides that redenomination must occur at the level of total share capital or any part of the total issued or to be issued share capital; that nominal share value in euro is to be calculated as the total share value divided by the number of shares, and that the nominal share value is not to be rounded. The section also requires that a printed copy of any resolution approving redenomination be sent by the company to the Registrar of Companies within 15 days of its passing, and lays down penalties for failure to do so.

Section 26 deals with companies wishing to renominialise, that is, to express share capital figures in convenient amounts in euro if simple redenomination into euro leads to inconvenient (i.e. uneven) amounts. The section provides that such companies may do so either during the transitional period (from 1 January 1999 to 31 December 2001) or thereafter up to 30 June 2003, provided that a resolution approving the renominialisation is passed by shareholders. In cases where renominialisation would lead to a decrease in share capital, the section provides that a special resolution of shareholders will be required to the effect that an amount equal to the decrease will be paid into a fund to be known as the Capital Conversion Reserve Fund. The section also requires that a printed copy of any resolution under the section be sent by the company to the Registrar of Companies within 15 days of its passing, and lays down penalties for failure to do so.

Section 27 amends section 134 of the Central Bank Act, 1989, to confirm that the Minister for Finance's ability to suspend certain transactions in the national interest under that section shall be without prejudice to the performance by the Central Bank of Ireland of any function, duty or power required under the Treaty or the Statute of the European System of Central Banks (ESCB).

Section 28 amends sections 10 and 13 of the Central Bank Act, 1997, to confirm that the requirement that the consent of the Minister for Finance be obtained before the Central Bank of Ireland may refuse to approve the rules of a payment system or subsequently

revoke such approval shall not extend to the ESCB-related activities of the Central Bank of Ireland.

Section 29 empowers the Minister to make regulations for enabling *Part II* of the Act to have full effect.

Section 30 empowers the Minister to provide coins of a commemorative nature, and to issue and put on sale to the public such coins through the Central Bank of Ireland.

Section 31 provides that the Central Bank of Ireland shall determine the price at which any type of commemorative coin is put on sale to the public under *section 30*, but shall not determine a price below face value.

Section 32 provides that coins issued under *Part III* shall be legal tender in the State, subject to the general limit as to the number of coins that are legal tender for any single transaction.

Section 33 provides for defraying the cost of providing coins issued under *Part III* out of the general fund of the Central Bank of Ireland and for the paying into the general fund of the Central Bank of Ireland the proceeds of issue of such coins.

Section 34 applies section 57 of the Copyright Act, 1963, to coins issued under *Part III*.

*An Roinn Airgeadais,
Lúnasa, 1998.*