



Number 8 of 1997

CENTRAL BANK ACT, 1997

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY AND GENERAL

Section

1. Short title, construction, collective citation and commencement.
2. Interpretation.
3. Laying of regulations and orders before Houses of the Oireachtas.
4. Repeals.

PART II

REGULATION OF PAYMENT SYSTEMS

5. Definitions (*Part II*).
6. Membership of payment system.
7. Payment systems.
8. Existing payment systems.
9. Approval of rules.
10. Refusal to approve of rules.
11. Application of section 17 of Act of 1971.
12. Failure to comply with conditions or requirements.
13. Revocation of approval of rules of payment system.
14. Offences.

Section

15. Imposition of requirements for membership.
16. Amendment of section 26 of Act of 1971.
17. Exemption of payment systems.
18. Payment of fees.
19. Prohibition of revocation of certain payments.
20. Electronic settlement of accounts.
21. Amendment of section 7 of Act of 1942.
22. Power to make regulations for cross-border transfers.

PART III

POWER OF THE BANK TO FORM OR ACQUIRE A COMPANY

23. Power of Bank to form or acquire a company.

PART IV

FUNCTIONS AND DUTIES OF GOVERNOR OF BANK

24. Functions and duties of Governor.
25. Amendment of section 8 of Act of 1942.
26. Amendment of section 19 of Act of 1942.
27. Application of section 20 of Act of 1942.

PART V

SUPERVISION OF *Bureaux de Change*

28. Definitions (*Part V*).
29. Prohibition of carrying on of *bureau de change* functions.
30. Requirements or conditions for *bureaux de change*.
31. Application of section 17 of Act of 1971 to *bureaux de change*.
32. Failure by *bureaux de change* to comply with requirements or conditions.
33. Publication of names.
34. Offences and penalties.
35. Revocation of authorisations.

Section

36. Amendment of Consumer Credit Act, 1995.

PART VI

AMENDMENTS TO INVESTMENT INTERMEDIARIES ACT, 1995

37. Amendment of section 4 of Investment Intermediaries Act, 1995.
38. Amendment of section 8 of Investment Intermediaries Act, 1995.
39. Amendment of section 10 of Investment Intermediaries Act, 1995.
40. Amendment of section 20 of Investment Intermediaries Act, 1995.
41. Amendment of section 22 of Investment Intermediaries Act, 1995.
42. Amendment of section 25 of Investment Intermediaries Act, 1995.
43. Amendment of section 26 of Investment Intermediaries Act, 1995.
44. Amendment of section 27 of Investment Intermediaries Act, 1995.
45. Amendment of section 28 of Investment Intermediaries Act, 1995.
46. Amendment of section 29 of Investment Intermediaries Act, 1995.
47. Amendment of section 31 of Investment Intermediaries Act, 1995.
48. Amendment of section 64 of Investment Intermediaries Act, 1995.
49. Amendment of section 78 of Investment Intermediaries Act, 1995.

PART VII

MISCELLANEOUS

50. Amendment of section 24 of Act of 1942.
51. Amendment of section 28 of Act of 1942.
52. Amendment of section 16 of Act of 1989.
53. Application of section 47 of Act of 1989.
54. Amendment of section 48 of Act of 1989.

Section

55. Amendment of section 75 of Act of 1989.
56. Amendment of section 76 of Act of 1989.
57. Amendment of section 90 of Act of 1989.
58. Amendment of section 91 of Act of 1989.
59. Amendment of section 92 of Act of 1989.
60. Amendment of section 3(2) of Consumer Credit Act, 1995.
61. Amendment of Part II, Chapter VII of Act of 1989.
62. Amendment of section 104 of Act of 1989.
63. Amendment of section 139 of Act of 1989.
64. Amendment of section 3 of Bretton Woods Agreements Act, 1957.
65. Amendment of section 3 of International Finance Corporation Act, 1958.
66. Amendment of section 3 of International Development Association Act, 1960.
67. Amendment of section 3 of Multilateral Investment Guarantee Agency Act, 1988.
68. Amendment of section 3 of European Bank for Reconstruction and Development Act, 1991.
69. Amendment of Part II, Chapter II of Act of 1989.
70. Amendment of Act of 1971.
71. Amendment of section 11 of Act of 1971.
72. Amendment of section 48 of Act of 1971.
73. Amendment of section 51 of Act of 1971.
74. Injunction to prevent an unauthorised person acting as a credit institution.
75. Powers of inspection.
76. Search and seizure.
77. Examination by Comptroller and Auditor General.
78. Amendment of Building Societies Act, 1989.
79. Information to be supplied by mortgage lenders.
80. Amendment of Trustee (Authorised Investments) Act, 1958.
81. Amendment of European Communities (Deposit Guarantee Schemes) Regulations, 1995.

[1997.] *Central Bank Act, 1997.* [No. 8.]

Section

- 82. References to company in ICC Bank Act, 1992.
- 83. Amendment of Stock Transfer Act, 1963.
- 84. Representative offices.
- 85. Amendment of Decimal Currency Act, 1969.

SCHEDULE

PART I

REPEALS

PART II

REVOCATION

[No. 8.]

Central Bank Act, 1997.

[1997.]

ACTS REFERRED TO

ACC Bank Act, 1992	1992, No. 6
Bretton Woods Agreements Act, 1957	1957, No. 18
Building Societies Act, 1989	1989, No. 17
Central Bank Acts, 1942 to 1989	
Companies Acts, 1963 to 1990	
Companies (Amendment) Act, 1977	1977, No. 31
Companies (Amendment) Act, 1986	1986, No. 25
Comptroller and Auditor General (Amendment) Act, 1993	1993, No. 8
Consumer Credit Act, 1995	1995, No. 24
Criminal Justice Act, 1994	1994, No. 15
Data Protection Act, 1988	1988, No. 25
Decimal Currency Act, 1969	1969, No. 23
European Bank for Reconstruction and Development Act, 1991	1991, No. 1
Finance Act, 1980	1980, No. 14
Finance Act, 1981	1981, No. 16
Finance Act, 1986	1986, No. 13
Finance Act, 1987	1987, No. 10
ICC Bank Act, 1992	1992, No. 21
Insurance Act, 1989	1989, No. 3
International Development Association Act, 1960	1960, No. 35
International Finance Corporation Act, 1958	1958, No. 22
Investment Intermediaries Act, 1995	1995, No. 11
Investment Limited Partnerships Act, 1994	1994, No. 24
Multilateral Investment Guarantee Agency Act, 1988	1988, No. 32
Netting of Financial Contracts Act, 1995	1995, No. 25
Pensions Acts, 1990 to 1996	
Public Offices Fees Act, 1879	42 & 43 Vict., c. 58
Statistics Act, 1993	1993, No. 21
Stock Exchange Act, 1995	1995, No. 9
Stock Transfer Act, 1963	1963, No. 21
Trustee Act, 1893	56 & 57 Vict., c. 53
Trustee (Authorised Investments) Act, 1958	1958, No. 8
Trustee Savings Banks Act, 1989	1989, No. 21
Unit Trusts Act, 1990	1990, No. 37



Number 8 of 1997

CENTRAL BANK ACT, 1997

AN ACT TO MAKE PROVISION FOR THE REGULATION BY THE CENTRAL BANK OF IRELAND OF PAYMENT SYSTEMS AND BUREAUX de CHANGE, AND TO AMEND AND EXTEND THE CENTRAL BANK ACTS, 1942 TO 1989 AND OTHER ENACTMENTS, AND TO PROVIDE FOR RELATED MATTERS. [31st March, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Central Bank Act, 1997.

Short title,
construction,
collective citation
and
commencement.

(2) This Act shall come into operation on such day or days as may be appointed by order or orders made by the Minister, either generally or with reference to any particular purpose or provision, and different days may be appointed for different purposes and different provisions of this Act.

(3) This Act, other than *sections 3, 36 to 49, 60, 64 to 68, 78 to 83 and 85* and the Central Bank Acts, 1942 to 1989, shall be construed together as one Act and may be cited together as the *Central Bank Acts, 1942 to 1997*.

2.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“the Act of 1942” means the Central Bank Act, 1942;

“the Act of 1971” means the Central Bank Act, 1971;

“the Act of 1989” means the Central Bank Act, 1989;

“the Bank” means the Central Bank of Ireland;

“the Court” means the High Court;

“credit institution” has the meaning assigned to it by the Regulations of 1992;

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pr.I S.2

“enactment” means any Act or instrument made thereunder;

“financial institution” means an undertaking other than a credit institution providing any one or more of the financial services set out in the Schedule to the Regulations of 1992;

“insurance undertaking” has the meaning assigned to it by the Insurance Act, 1989;

“the Minister” means the Minister for Finance;

“mortgage lender” means a credit institution or other person whose business includes the making of housing loans where “housing loan” means an agreement for credit on the security of a mortgage of a freehold or leasehold estate or interest in a house where—

- (a) the loan is made for the purpose of enabling the borrower to provide or improve the house or to purchase the said estate or interest, or
- (b) the loan is made for the purpose of refinancing a loan within the meaning of *paragraph (a)*, or
- (c) the house is to be used as the principal residence of the borrower or his dependants;

“prescribed” means prescribed by Regulations made by the Minister;

“the Regulations of 1992” means the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992);

“statutory functions”, in relation to the Bank, means its functions—

- (a) under the *Central Bank Acts, 1942 to 1997*,
- (b) imposed by virtue of the ACC Bank Act, 1992 (Section 4) Regulations, 1992 (S.I. No. 373 of 1992), the ICC Bank Act, 1992 (Section 3) Regulations, 1993 (S.I. No. 24 of 1993), the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992), or the European Communities (Consolidated Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 396 of 1992),
- (c) under the Unit Trusts Act, 1990 (No. 37 of 1990),
- (d) under the Building Societies Act, 1989 (No. 17 of 1989),
- (e) under the Companies Act, 1990 (No. 33 of 1990),
- (f) under the Trustee Savings Banks Act, 1989 (No. 21 of 1989),
- (g) under the Investment Limited Partnerships Act, 1994 (No. 24 of 1994),
- (h) under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989), and any instruments amending that instrument,
- (i) under the Stock Exchange Act, 1995 (No. 9 of 1995),

(j) under the Investment Intermediaries Act, 1995 (No. 11 of Pr.I S.2 1995), and

(k) under any other enactment;

“subsidiary” has the meaning assigned to it by section 155 of the Companies Act, 1963.

(2) For the purposes of the *Central Bank Acts, 1942 to 1997*, “deposit”, on or after the commencement of this section, means a sum of money accepted on terms under which it is repayable with or without interest whether on demand or on notice or at a fixed or determinable future date.

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

(4) In this Act 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 reference to some other provision is intended.

(5) In this Act a reference to an enactment shall be construed as a reference to that enactment as amended or adapted, whether before or after the commencement of this section, by or under any subsequent enactment.

3.—Every regulation or order made under this Act 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. Laying of regulations and orders before Houses of the Oireachtas.

4.—(1) The Acts mentioned in *column (2)* of *Part I* of the *Schedule* are hereby repealed to the extent specified in *column (3)* of that Schedule. Repeals.

(2) The instrument mentioned in *column (2)* of *Part II* of the *Schedule* is hereby revoked to the extent specified in *column (3)* of that Schedule.

PART II

REGULATION OF PAYMENT SYSTEMS

5.—In this Part—

Definitions (*Part II*).

“existing payment system” means a payment system operating at the time of the commencement of this section;

“payment system” means a system established in the State, or proposed to be established in the State, by any person, in which credit institutions or financial institutions participate and which provides for—

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pr.II S.5

- (a) all or any of the following, namely, the processing, handling, clearance and settlement of any means of payment or of any securities, or
- (b) the payment of any moneys by that means of payment, by or as between the members of the system or third parties, whether or not the processing, handling, clearance, settlement or payment of any of the moneys takes place in part or in whole within the State or outside the State;

“rules”, in relation to a payment system or a proposed payment system, means the rules governing or proposed to govern the membership and operation of the payment system.

Membership of payment system.

6.—The Bank may become a member of, or be a party to the establishment or operation of, a payment system.

Payment systems.

7.—No payment system, other than an existing payment system, shall be established or operated unless the persons who propose to establish the system have submitted the rules for such a proposed payment system (in this part referred to as a “proposed system”) to the Bank for approval and the Bank has approved of those rules.

Existing payment systems.

8.—(1) Within three months of the passing of this Act, every payment system which was in operation before such passing (in this Part referred to as “an existing system”) shall—

- (a) submit its rules to the Bank for approval, or
- (b) cease to operate.

(2) Pending a decision by the Bank to approve or not to approve of the rules of an existing system submitted to it under *subsection (1) (a)*, the Bank may—

- (a) impose on the system such conditions or requirements as it considers appropriate to impose, or
- (b) issue a direction under *section 12* as if the existing system were a system the rules of which had been approved of by the Bank.

(3) The operators of a payment system may appeal to the Court against the imposition of any condition or requirement or the giving of a direction under this section.

(4) On hearing an appeal under *subsection (3)* of this section, the Court may confirm, vary or rescind any condition, requirement or direction imposed under this section.

Approval of rules.

9.—(1) The Bank shall decide to approve or refuse to approve the rules of a system within three months of the receipt of a submission under *section 8 (1)* and where the Bank approves of the rules of an existing system or for a proposed system, it may—

- (a) make its approval subject to conditions or requirements or both as it thinks fit, and

(b) at any time after approval, impose conditions or requirements or both on any class of payment system or amend or revoke any condition or requirement or both to which this subsection relates, whether or not previously amended by this subparagraph. Pr.II S.9

(2) Every condition or requirement imposed to which this subsection relates and every amendment thereto or revocation thereof shall be imposed, amended or revoked as the Bank sees fit in the interest of the proper and orderly regulation of the payment system concerned and of competition between payment systems and every such condition or requirement may be imposed on either or both—

(a) that class of payment system, and

(b) the members of that payment system.

(3) In respect of any condition or requirement to which *subsection (1) (b)* relates, a condition or requirement shall not be imposed, amended or revoked until—

(a) the Bank has notified the operators or, when appropriate, the members of the payment system of its intention to so impose, amend or revoke, and

(b) the Bank has considered any representations made by the payment system or any member thereof within such time limit as the Bank may specify when notifying the payment system.

(4) The approval by the Bank of the rules of, or for, a payment system shall not constitute a warranty as to the solvency of that system or of any member of that system and the Bank shall not be liable, by reason of its approval, in respect of any losses incurred through the insolvency or default of that system or any of its members.

(5) An application for approval of the rules of an existing system or for a proposed system shall be in such form and contain such particulars as the Bank may from time to time determine.

(6) The Bank shall not approve of the rules of an existing system or a proposed system unless the existing system or proposed system is a company incorporated under the Companies Acts, 1963 to 1990.

(7) The operator of an existing system or the promoter of a proposed system may appeal to the Court against the imposition of any condition or requirement within 21 days of the imposition thereof and the Court may, on hearing an appeal under this section, confirm, vary or rescind any condition or requirement under this section.

10.—(1) The Bank shall not refuse to approve of the rules of an existing system or for a proposed system without the consent of the Minister and unless it is satisfied that the approval would not be in the interest of the proper and orderly regulation of such a system, and the Minister shall not consent to the refusal unless he or she is satisfied that the approval would not be in the interest of the proper and orderly regulation of such a system. Refusal to approve of rules.

(2) Whenever the Bank proposes to refuse to approve of the rules of an existing system or for a proposed system—

Pr.II S.10

- (a) it shall notify the system or, in the case of a proposed system, the promoter of the system, in writing that it intends to seek the consent of the Minister to the proposed refusal and of its reasons for the refusal and that the system or the promoter may, within the period of 21 days after the date of the giving of the notification, make representations in writing to the Minister in relation to the proposed refusal,
- (b) the operators of the system or the promoter may make such representations in writing to the Minister within the time aforesaid, and
- (c) the Minister shall, before deciding to give or withhold his or her consent, consider any representations duly made to him or her under this subsection in relation to the proposed refusal.

Application of section 17 of Act of 1971.

11.—Without prejudice to the provisions of *section 9*, *section 17* (which relates to books and records of holders of licences) (as amended by *section 36* of the Act of 1989) of the Act of 1971 shall apply as if—

- (a) every payment system to which this Part applies, and
- (b) every member of that system,

who is not at the time of the commencement of this section the holder of a licence for the purpose of the Central Bank Acts, 1942 to 1989, and this Act, were the holder of such a licence.

Failure to comply with conditions or requirements.

12.—(1) Where the Bank is satisfied that a payment system or any member thereof has failed or is failing to comply with a condition or requirement under *section 8 (2) (a)* or *section 9*, the Bank may give a direction to—

- (a) the payment system to cease such activities as the Bank may specify, and
- (b) any or all of the members of the payment system to cease operating as a member or members of that system,

for a specified period or until further notice by the Bank.

- (2) (a) The payment system to which, or member or members thereof to whom, a direction is given under *subsection (1)* may apply in a summary manner to the Court for, and the Court may grant, an order setting aside the direction.
- (b) The Bank may apply in a summary manner to the Court to have a direction by it under this section confirmed by the Court.

(3) The Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(4) Where the Court is satisfied, because of the nature or the circumstances of the case or otherwise in the interests of justice that it is desirable, the whole or any part of proceedings under this section may be heard otherwise than in public.

13.—(1) The Bank may—

Pr.II

Revocation of approval of rules of payment system.

- (a) revoke an approval of the rules of a payment system if the system to which it was granted so requests,
- (b) with the consent of the Minister, revoke an approval of the rules of a payment system, if—
 - (i) the system—
 - (I) has not commenced to operate within 12 months of the date on which the approval was granted, or
 - (II) has ceased operating for a period of more than one month,
 - (ii) the payment system being a company, the company is being wound up,
 - (iii) the payment system (being an existing system) or the promoter of a proposed system has obtained the approval of the Bank through false statements or any other irregular means,
 - (iv) the payment system becomes unable to meet its obligations to creditors or suspends payment lawfully due by the system or by any member thereof, or
 - (v) since the grant of the approval, the circumstances relevant to the grant have changed and are such that, if an application for an approval were made in the changed circumstances, it would be refused.

(2) Whenever the Bank proposes to revoke an approval (other than in pursuance of a request by the payment system to which it was granted to do so)—

- (a) it shall notify the payment system concerned that it intends to seek the consent of the Minister to the revocation and of the reasons for that revocation and that the system may, within 21 days after the date of the giving of the notification, make representations in writing to the Minister in relation to the proposed revocation,
- (b) the payment system may make such representations in writing to the Minister within the time aforesaid, and
- (c) the Minister shall, before deciding to give or withhold his or her consent, consider any representations duly made to him or her under this subsection in relation to the proposed revocation.

(3) Where an approval of the rules of a payment system is revoked and the system is not a company which is being wound up—

- (a) the system and the members thereof shall continue to be subject to the duties and obligations imposed by or under this Part or section 18 of the Act of 1971 until all liabilities of the system and its members have been discharged to the satisfaction of the Bank,

(b) the system shall, as soon as possible after the approval is revoked, notify the Bank and such other persons (if any) as the Bank indicates are to be notified of the measures being taken or proposed to be taken to discharge in full and without undue delay the liabilities of the system and the members thereof,

(c) in the case where—

- (i) that payment system has notified the Bank in accordance with *paragraph (b)* and the Bank is of the opinion that the measures being taken or proposed to be taken for the purposes of that paragraph are not satisfactory, or
- (ii) that payment system has not so notified the Bank and the Bank is of the opinion that the system has failed to so notify as soon as possible after the approval is revoked, or
- (iii) the Bank is of the opinion that the payment system has failed to take all reasonable steps to notify persons that the Bank has indicated, under *paragraph (b)*, are to be notified,

then, the Bank may give a direction in writing to that payment system or to any of its members for such period, not exceeding six months, as may be specified therein, prohibiting the payment system or the members thereof so directed from—

- (I) dealing with or disposing of any assets or specified assets of the payment system or of its members in any manner, or
- (II) engaging in any transaction or class of transaction or specified transaction, or
- (III) making payments,

without the prior authorisation of the Bank, and the Bank may require that payment system or any of its members to prepare and submit to it for its approval within two months of the direction, a scheme for the orderly discharge in full of the liabilities concerned.

(4) (a) Where the approval of the rules of a payment system is revoked and the system is a company which is being wound up, the liquidator of the company shall, in addition to the duties and obligations in respect of the winding up, be subject to the duties and obligations to which the payment system would be subject were it a payment system to which *subsection (3)* relates and that subsection shall, for the purpose of this subsection, be construed accordingly.

(b) Notwithstanding *paragraph (a)*, the Bank may, where it revokes an approval and considers it appropriate in the circumstances, remove in writing the duty and obligation imposed on the liquidator concerned to comply with *paragraph (b)* of *subsection (3)* and may impose in writing on that liquidator such further or other duty and obligation which corresponds to that set out in the said *paragraph (b)*.

- (c) Nothing in this subsection shall be construed as affecting any duty or obligation under this Part of the members of the payment system concerned. Pr.II S.13

(5) The Bank shall as soon as may be after the revocation of an approval of the rules of a payment system publish a notice of the revocation in such manner as it thinks fit.

- (6) (a) The system to which a direction was given under *subsection (3)*, or a liquidator to whom a direction was given under *subsection (4)*, may apply in a summary manner to the Court for, and the Court may grant, an order setting aside the direction.

- (b) The Bank may apply in a summary manner to the Court to have a direction by it under this section confirmed by the Court.

(7) The Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(8) Where the Court is satisfied, because of the nature or the circumstances of the case or otherwise in the interests of justice, that it is desirable, the whole or any part of proceedings under this section may be heard otherwise than in public.

14.—Any person who contravenes *section 7* or *section 8 (1)* and a payment system or a member thereof who— Offences.

- (a) commits by act or omission a breach of a condition or requirement duly imposed and which relates to the approval by the Bank of the rules of the system, or
- (b) fails by act or omission to comply with a direction confirmed by the Court under *section 12* or *section 13*,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both, or
- (ii) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the court, to imprisonment for a term not exceeding five years, or to both,

and

- (iii) if the contravention, breach or failure in respect of which such person, payment system or member was convicted is continued after conviction, that person, system or member shall be guilty of an offence on every day on which the contravention, breach or failure continues after conviction in respect of the original contravention, breach or failure and for each such offence that person, system or member shall be liable on summary conviction to a fine not exceeding £100 or on conviction on indictment to a fine not exceeding £5,000.

15.—In approving the rules of a payment system or in imposing terms and conditions for the operation of a system, the Bank may, without prejudice to any other requirement it sees fit to impose in Imposition of requirements for membership.

the interests of the proper and orderly regulation of the system, impose conditions in relation to all or any of the following:

- (a) the requirements for membership and rules of operation of the system;
- (b) the code of conduct to be followed by the members of the system;
- (c) the apportionment of costs as between the members themselves or between the members and the system;
- (d) the fees, contributions or any other financial requirement in relation to membership of a payment system whatsoever imposed or to be imposed on an existing member of the system or an applicant for membership of the system.

Amendment of section 26 of Act of 1971.

16.—Section 26 of the Act of 1971 is hereby amended by the substitution for subsection (7) (inserted by section 42 of the Act of 1989) of the following subsections:

“(7) The Minister may, after consultation with the Bank and where he or she is of the opinion that the proper and orderly regulation of financial markets so requires, by order—

- (a) in the case of either or both subsections (2) and (3) of this section, apply those subsections or restrict their application to any class of persons, and
- (b) in the case of subsection (6) of this section, amend that subsection by the addition thereto or deletion therefrom, of any instrument specified in that subsection,

and, in the case of each subsection, whether or not previously affected by virtue of this subsection.

(8) In this section ‘holder of a licence’ shall be deemed to include a credit institution within the meaning of Regulation 2 of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992).

(9) Where the Minister is of the opinion, after consulting the Bank and such other Ministers (if any) as he considers it appropriate to consult with, that there are adequate supervisory and inspection provisions contained in any enactment relating to a financial institution or a class or type of institution to which the provisions of this Chapter would apply, then the Minister may by order specify the enactment concerned and, where necessary in the context of that enactment, the institution or class or type of institution to which the order relates and, accordingly, those provisions shall not apply to an institution to which the order relates.

(10) The Minister may, after consulting the Bank and such other Ministers (if any) as he considers it appropriate to consult with, by order, revoke an order, under subsection (9).”.

Exemption of payment systems.

17.—The Bank may exempt a payment system or a class of payment system from some or all of the requirements of this Part on such terms and conditions as the Bank may decide, where it is of the opinion that the application of this Part to that system or class of system is not necessary in the interest of the proper and orderly regulation of financial transactions in the State.

18.—(1) Subject to *subsection (2)*, the Minister may, after consultation with the Bank, prescribe the fee to be paid to the Bank by any person supervised or regulated by it under any enactment and different fees may be prescribed for different classes of persons.

Pr.II
Payment of fees.

(2) Where the Minister proposes to prescribe a fee under *subsection (1)*, he or she—

- (a) shall notify the persons of the class to which the proposed fee relates of that proposed fee, and
- (b) shall not prescribe the fee until he or she has considered any representations made to him or her within such period, being not less than two months after the date the notification was sent to each person concerned.

19.—Where any credit institution instructs the Central Bank to make a payment to the Central Bank or to another credit institution that instruction may not be revoked on or after the debiting of the account of such credit institution.

Prohibition of
revocation of
certain payments.

20.—Notwithstanding anything to the contrary contained in any enactment relating to settlement or other accounts held at the Bank, all payment instructions and authorisations to and from the Bank shall be effective if made through a computerised system established by the Bank or in any other electronic form and not otherwise recorded within the Bank (without the need for an instrument in writing).

Electronic
settlement of
accounts.

21.—The following section is hereby substituted for section 7 of the Act of 1942:

Amendment of
section 7 of Act of
1942.

“7.—(1) It shall be lawful for the Bank to do all or any of the following things, that is to say:

- (a) buy or sell coin or gold or silver bullion, or other precious metal, or any currency or currency units, however described;
- (b) receive deposits;
- (c) open accounts in other countries or act as agent, depository, or correspondent of any credit institution carrying on business in or outside the State;
- (d) with the consent of the Minister acquire, hold, or dispose of shares in a bank or other institution formed wholly or mainly by banks which are the principal currency authority in their respective countries;
- (e) re-discount any exchequer note or bill, local authority bill, bill of exchange or promissory note on such terms and conditions as the Bank sees fit;
- (f) make loans or advances to credit institutions on the security of such assets and subject to such terms and conditions as the Bank sees fit;

Pr.II S.21

- (g) fix and publish from time to time the minimum rate or rates at which the Bank may re-discount any bill or debt instrument or otherwise make funds available to credit institutions;
- (h) buy, hold, or sell securities;
- (i) keep registers of securities generally;
- (j) operate or participate in any depository of securities or of other instruments;
- (k) keep the accounts for the clearing and settlement of securities or payment instruments;
- (l) become a member of, or a party to the establishment or operation of a payment system;
- (m) operate or participate in any system that provides a settlement service for transactions in securities or other instruments for its members;
- (n) enter into agreements with any depositories of securities or other instruments and to carry out any transactions under the terms of such agreements necessary for the settlement of transactions between members of such depositories and members of any depository operated by the Bank.”.

Power to make regulations for cross-border transfers.

22.—(1) The Minister may make regulations providing for the regulation of cross-border credit transfers and, without prejudice to the generality of the foregoing, the regulations may provide, in respect of such credit transfers, for all or any of the following:

- (a) transparency;
- (b) periods of time within which establishments may be bound to make a payment;
- (c) an obligation to execute transfers in accordance with instructions in payment orders, including instructions as regards allocation of costs;
- (d) an obligation, in the event of non-execution of transfers, to refund an amount up to and including the full amount, interest and charges;
- (e) dispute resolution procedures.

(2) In this section—

“cross-border credit transfer” means a transaction carried out on the initiative of an originator via an institution or its branch in one Member State of the European Union, with a view to making available an amount of money to a beneficiary at an institution or its branch in another Member State;

“transparency” means the making available to actual and prospective customers in writing, including where appropriate by electronic means, in a readily comprehensible form, information on conditions for cross-border credit transfers.

PART III

POWER OF THE BANK TO FORM OR ACQUIRE A COMPANY

23.—(1) Subject to *subsection (4)*, the Bank may promote and take part in the formation or establishment of one or more than one company. Power of Bank to form or acquire a company.

(2) The Bank may acquire, hold and dispose of shares or other interests in one or more than one company and become a member of a company.

(3) The Bank may exercise total or partial control of the composition of the board of directors that controls or manages a company promoted, formed or established by it.

(4) The exercise by the Bank of any power conferred by this section shall be subject to the consent of the Minister, given after consultation with any other Minister of the Government who, in the opinion of the Minister, having regard to the functions of that Minister of the Government, ought to be consulted.

(5) The consent of the Minister shall be required for the drawing up of or amending of the Memorandum and Articles of Association of any company formed or acquired by the Bank.

(6) The functions and powers of any subsidiary of the Bank shall be limited to those conferred on the Bank.

(7) *Subsection (6)* shall not apply where the Bank becomes a member of, or is a party to the establishment or operation of a payment system.

PART IV

FUNCTIONS AND DUTIES OF GOVERNOR OF BANK

24.—The Governor of the Bank shall, if so requested, attend before a Select Committee of Dáil Éireann that is assigned the role of examining matters related to the Bank and shall furnish that Committee with such information as may be requested, subject to any restrictions in this regard as are placed on him or her by virtue of the provisions of the Central Bank Acts, 1942 to 1989, and this Act. Functions and duties of Governor.

25.—Section 8 of the Act of 1942 is hereby amended by the insertion of the following paragraph after paragraph (b)— Amendment of section 8 of Act of 1942.

“(b) provide advice and assistance to the Central Statistics Office in regard to the collection, compilation, analysis or interpretation of balance of payments, national accounts or any other financial statistics relevant for these purposes, including where appropriate to undertake the collection of data for this purpose;”.

26.—Section 19 of the Act of 1942 is hereby amended: Amendment of section 19 of Act of 1942.

(a) by the substitution of the following paragraph for paragraph (b) of subsection (4):

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pt.IV S.26

“(b) he shall, during his term of office, be ineligible for election as a director of any credit institution, financial institution, or insurance undertaking;”;

(b) by the substitution of the following subsection for subsection (5):

“(5) In this section and in section 2:

‘credit institution’ means an undertaking whose business it is to receive deposits or other repayable funds from the public and to grant credit on its own account but does not include the European Monetary Institute;

‘financial institution’ means an undertaking other than a credit institution providing any one or more of the financial services set out in the Schedule to the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992);

‘insurance undertaking’ has the meaning assigned to it by the Insurance Act, 1989.”.

Application of section 20 of Act of 1942.

27.—(1) Section 20 of the Act of 1942 shall apply as if every reference to a bank, wherever it occurs, were a reference to a credit institution, a financial institution or an insurance undertaking.

(2) Nothing in section 20 of the Act of 1942 shall be construed as prohibiting the Governor of the Bank from effecting any policy of insurance or purchasing the units of, or participating in, any collective investment scheme whose funds are invested in bonds or equities generally, including the bonds or shares of a credit institution or financial institution, or from having an ordinary savings account with a building society or a friendly society.

PART V

SUPERVISION OF *Bureaux de Change*

Definitions (Part V).

28.—In this Part—

“authorisation” means an authorisation granted to a person by the Bank under this Part to carry on *bureau de change* business;

“*bureau de change* business” means any business which consists of the provision of foreign currency exchange services to the public but excluding—

(a) the provision of such services by a person or body referred to in section 32 (1) (a) to (k) or (m) of the Criminal Justice Act, 1994, in the normal course of the business of such person or body, or

(b) the provision of such services on an ancillary basis by a trader to customers in the normal course of business.

Prohibition of carrying on of *bureau de change* functions.

29.—(1) A person shall not carry on *bureau de change* business at any time after this section has been in operation for six months unless the person has been granted an authorisation for the purposes of this section and the authorisation has not been revoked.

(2) Subject to the provisions of this section, the Bank may grant or refuse to grant to any person applying to it an authorisation to carry on *bureau de change* business. Pr.V S.29

(3) The Bank shall not refuse an authorisation without the consent of the Minister and unless it is satisfied that the authorisation would not be in the interest of the orderly regulation of *bureau de change* business in the context of the effective implementation of the money laundering provisions of the Criminal Justice Act, 1994.

(4) The Minister shall not grant his or her consent to the refusal unless he or she is satisfied that the authorisation would not be in the interest of the orderly regulation of *bureau de change* business in the context of the effective implementation of the money laundering provisions of the Criminal Justice Act, 1994.

(5) Whenever the Bank proposes to refuse an authorisation to a person—

(a) it shall notify the person in writing that it intends to seek the consent of the Minister to the refusal and of its reasons for the refusal and that the person may, within 21 days after the date of the giving of the notification, make representations in writing to the Minister in relation to the proposed refusal,

(b) the person may make such representations in writing to the Minister within the time aforesaid, and

(c) the Minister shall, before deciding to grant or refuse to grant his or her consent, consider any representations duly made to him or her under this subsection in relation to the proposed refusal.

(6) An application for an authorisation shall be in such form and contain such particulars as the Bank may from time to time determine.

(7) The authorisation of a person under this section shall not constitute a warranty as to the solvency of the person to carry on *bureau de change* business and the Bank shall not be liable in respect of any losses incurred through the insolvency or default of the person.

30.—Every person carrying on *bureau de change* business shall comply with any requirements or conditions relating to that business that the Bank considers prudent to impose on that person from time to time for the purposes and in the interest of the orderly regulation of *bureau de change* business in the context of the effective implementation of the money laundering provisions of the Criminal Justice Act, 1994.

Requirements or conditions for *bureaux de change*.

31.—Without prejudice to *section 30* of this Act, *section 17* of the Act of 1971 shall apply as if every person authorised by the Bank to carry on *bureau de change* business were the holder of a licence for the purposes of the *Central Bank Acts, 1942 to 1997*.

Application of *section 17* of Act of 1971 to *bureaux de change*.

32.—(1) Where, on an application made in a summary manner by the Bank, the Court is of the opinion that there has occurred or is occurring a failure by a person carrying on *bureau de change* business to comply with a requirement or condition imposed by virtue of *section 30*, the Court may by order prohibit the continuance of the failure by the person concerned.

Failure by *bureaux de change* to comply with requirements or conditions.

Pt.V S.32

(2) The Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(3) Where the Court is satisfied, because of the nature or the circumstances of the case or otherwise in the interests of justice, that it is desirable, the whole or any part of proceedings under this section may be heard otherwise than in public.

Publication of names.

33.—(1) The Bank shall publish from time to time, but not less frequently than once every twelve months, in such manner as it thinks fit, the names of persons authorised to carry on *bureau de change* business.

(2) The Bank shall as soon as may be after the revocation of an authorisation publish a notice of the revocation in such manner as it thinks fit.

Offences and penalties.

34.—A person who contravenes *subsection (1) of section 29* or a person carrying on *bureau de change* business who fails by act or omission to comply with a requirement or condition imposed on that person under *section 30* shall be guilty of an offence and shall be liable—

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

(b) on conviction on indictment, to a fine not exceeding £50,000 or, at the discretion of the court, to imprisonment for a term not exceeding five years, or to both,

and, if the contravention, breach or failure in respect of which such person was convicted is continued after conviction, that person shall be guilty of an offence on every day on which the contravention, breach or failure continues after conviction in respect of the original contravention, breach or failure and for each such offence that person shall be liable on summary conviction to a fine not exceeding £100 or on conviction on indictment to a fine not exceeding £5,000.

Revocation of authorisations.

35.—(1) The Bank may—

(a) revoke an authorisation if the person to whom it was granted so requests,

(b) with the consent of the Minister, revoke an authorisation if the person to whom it was granted—

(i) (I) has not commenced to carry on *bureau de change* business within 12 months of the date on which the authorisation was granted, or

(II) has ceased to carry on *bureau de change* business and has not carried it on during a period of more than six months immediately following the cesser,

[1997.]

Central Bank Act, 1997.

[No. 8.]

Pr.V S.35

- (ii) is adjudicated bankrupt,
 - (iii) being a partnership, the partnership is dissolved by death or bankruptcy of any partner, or otherwise under the law of partnership,
 - (iv) being a company, is being wound up,
 - (v) has obtained the authorisation through false statements or any other irregular means,
 - (vi) becomes unable to meet the obligations of that person to the creditors of that person or suspends payments lawfully due or can no longer be relied upon to fulfil those obligations,
 - (vii) is convicted on indictment of an offence under any provision of the *Central Bank Acts, 1942 to 1997* or an offence under any provision of the Criminal Justice Act, 1994, or an offence involving fraud, dishonesty or breach of trust,
 - (viii) has a head office in another state that is a member of the European Communities and the authority in that state that exercises in that state functions corresponding to those of the Bank under this Part has withdrawn authorisation from the institution of which the holder is a branch,
- (c) with the consent of the Minister, revoke the authorisation if, since the grant of the authorisation, the circumstances relevant to the grant have changed and are such that, if an application for an authorisation were made in the changed circumstances, it would be refused.

(2) Whenever the Bank proposes to revoke an authorisation other than in circumstances to which *paragraph (a) or (b) (viii) of subsection (1)* relates, then—

- (a) the person to whom it was granted:
 - (i) shall be notified in writing that the Bank intends to seek the consent of the Minister to the revocation, the reasons for the revocation and that the person may, within 21 days after the date of the giving of the notification, make representations in writing to the Minister in relation to the proposed revocation,
 - (ii) may make such representations in writing to the Minister within the time aforesaid, and
- (b) the Minister shall, before deciding to give or withhold his or her consent, consider any representations duly made to him or her under this subsection in relation to the proposed revocation.

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pt. V

Amendment of
Consumer Credit
Act, 1995.

36.—The Consumer Credit Act, 1995, is hereby amended—

(a) by the insertion after section 149 of the following section:

“149A—(1) Section 149 shall apply to a person who has been granted an authorisation by the Central Bank under *Part V* of the *Central Bank Act, 1997*, to carry on *bureau de change* business, as if—

(a) each reference to ‘credit institution’ were a reference to ‘a person authorised to carry on *bureau de change* business under *Part V* of the *Central Bank Act, 1997*’,

(b) the reference to ‘three months’ in subsection (1) were a reference to ‘three months after the granting of an authorisation under *Part V* of the *Central Bank Act, 1997*’,

(c) the reference to ‘banking or financial business’ in subsection (7) (a) were a reference to ‘*bureau de change* business’,

(d) the reference to ‘banking or financial business’ in subsection (8) (a) (ii) were a reference to ‘*bureau de change* business’, and

(e) subsection (12) (c), (d) and (e) were repealed.

(2) Nothing in this section shall cause a person authorised to carry on *bureau de change* business under *Part V* of the *Central Bank Act, 1997*, to be treated as a credit institution for any purpose other than as specified in this section.”

and

(b) by the insertion, in section 150, after “credit institution” of “or of a person authorised to carry on *bureau de change* business under *Part V* of the *Central Bank Act, 1997*.”.

PART VI

AMENDMENTS TO INVESTMENT INTERMEDIARIES ACT, 1995

Amendment of
section 4 of
Investment
Intermediaries Act,
1995.

37.—The Investment Intermediaries Act, 1995, is hereby amended by the substitution of the following section for section 4:

“Supervisory
authority.

4.—(1) In this Act, ‘supervisory authority’ means the Bank.

(2) The Bank shall be the supervisory authority for all investment business firms.

(3) Notwithstanding anything to the contrary in this Act, this Act shall be read as if there were only one supervisory authority for the purposes of this Act.”.

[1997.] *Central Bank Act, 1997.* [No. 8.]

38.—Section 8 of the Investment Intermediaries Act, 1995, is hereby amended—

Pr.VI
Amendment of
section 8 of
Investment
Intermediaries Act,
1995.

(a) by the deletion after “The Bank” of “and the Minister for Enterprise and Employment”,

(b) by the substitution of “authority” for “authorities”.

39.—Section 10 of the Investment Intermediaries Act, 1995, is hereby amended by the insertion of the following subsection after subsection (16):

Amendment of
section 10 of
Investment
Intermediaries Act,
1995.

“(17) Every application for authorisation made to the Minister for Enterprise and Employment under this Act before the coming into operation of this section is hereby deemed to have been made to the Bank.”.

40.—Section 20 (5) of the Investment Intermediaries Act, 1995, is hereby amended by the deletion of “shall co-operate with the other supervisory authority in the State and”.

Amendment of
section 20 of
Investment
Intermediaries Act,
1995.

41.—Section 22 of the Investment Intermediaries Act, 1995, is hereby amended—

Amendment of
section 22 of
Investment
Intermediaries Act,
1995.

(a) by the deletion in subsection (5) of “the Minister for Enterprise and Employment or”,

(b) by the substitution in subsection (5) of “the Governor” for “that Minister or that Governor”,

(c) by the deletion in subsection (6) (a) of “Minister for Enterprise and Employment or the”, and

(d) by the deletion in subsection (6) (a) of “said Minister or”.

42.—Section 25 (b) of the Investment Intermediaries Act, 1995, is hereby amended by the deletion of “the instruments referred to in section 4 (2) (a) to (c)” and the substitution of “units or shares in undertakings for collective investments in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989), and any subsequent amendments thereto, units in a unit trust, other collective scheme instruments,”.

Amendment of
section 25 of
Investment
Intermediaries Act,
1995.

43.—Section 26 (1) of the Investment Intermediaries Act, 1995, is hereby amended by the deletion of “the instruments referred to in section 4 (2) (a) to (c) of this Act” and the substitution of “units or shares in undertakings for collective investments in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989), and any subsequent amendments thereto, units in a unit trust, other collective scheme instruments,”.

Amendment of
section 26 of
Investment
Intermediaries Act,
1995.

Pt. VI

Amendment of section 27 of Investment Intermediaries Act, 1995.

44.—The Investment Intermediaries Act, 1995, is hereby amended by the substitution of the following section for section 27:

“Requirements for investment product intermediaries.

27.—A person shall not act as or hold himself out to be an investment product intermediary unless he holds an appointment in writing from each product producer for which he is an intermediary, and unless—

(a) he is a member of any approved representative body specified for this purpose by the supervisory authority whose rules require compliance with the terms of this Act, or

(b) he is a certified person, or

(c) he otherwise complies with the provisions of this Act, and

he effects a policy of professional indemnity insurance in a form specified by the supervisory authority (and different forms may be specified for different classes of person), indemnifying him up to such sum, in such manner, in respect of such matters and valid for such minimum period as the supervisory authority may prescribe from time to time.”.

Amendment of section 28 of Investment Intermediaries Act, 1995.

45.—Section 28 (1) of the Investment Intermediaries Act, 1995, is hereby amended—

(a) by the deletion of “the instruments referred to in section 4 (2) (a) to (c) or” and the substitution of “units or shares in undertakings for collective investments in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989), and any subsequent amendments thereto, units in a unit trust, other collective scheme instruments,”,

(b) by the substitution of “by the supervisory authority” for “by the Minister for Enterprise and Employment”.

Amendment of section 29 of Investment Intermediaries Act, 1995.

46.—Section 29 of the Investment Intermediaries Act, 1995, is hereby amended by the substitution of “the supervisory authority” for “the Minister for Enterprise and Employment”.

Amendment of section 31 of Investment Intermediaries Act, 1995.

47.—Section 31 of the Investment Intermediaries Act, 1995, is hereby amended—

(a) by the substitution in subsection (3) of “the supervisory authority” for “the Minister for Enterprise and Employment”,

(b) by the substitution in subsection (3) of “the supervisory authority” for “that Minister”, and

[1997.]

Central Bank Act, 1997.

[No. 8.]

(c) by the substitution in subsection (4) of “The supervisory authority” for “The Minister for Enterprise and Employment”.

Pr.VI S.47

48.—The Investment Intermediaries Act, 1995, is hereby amended by the substitution of the following section for section 64:

Amendment of section 64 of Investment Intermediaries Act, 1995.

“Authorised officers.

64.—(1) The Governor of the Bank or any other person appointed by the Governor of the Bank for that purpose may authorise in writing such and so many persons to be authorised officers for the purposes of this Act and may revoke such authorisations.

(2) Every person who is appointed to be an authorised officer pursuant to this section shall be furnished with a certificate of appointment and shall, if so required, when exercising any power conferred on him by this Act, produce such certificate or a copy of it duly authenticated by the Governor of the Bank or such other person appointed by the Governor of the Bank for that purpose and a form of personal identification.”.

49.—Section 78 (3) of the Investment Intermediaries Act, 1995, is hereby amended by the deletion of “or the Minister for Enterprise and Employment” in each place where it occurs.

Amendment of section 78 of Investment Intermediaries Act, 1995.

PART VII

MISCELLANEOUS

50.—The following section is hereby substituted for section 24 (as amended by section 14 of the Act of 1989) of the Act of 1942:

Amendment of section 24 of Act of 1942.

“24.—(1) Every Director of the Board (other than a service Director) shall, unless he sooner dies, resigns or becomes disqualified, hold office for a period of five years from the date of appointment.

(2) Every service Director shall hold office at the pleasure of the Minister and may be removed by the Minister at any time.

(3) This section shall apply to every Director of the Bank who holds office on the commencement of *section 50* of the *Central Bank Act, 1997*.”.

51.—Section 28 of the Act of 1942 is hereby amended by the substitution of the following subsection for subsection (2):

Amendment of section 28 of Act of 1942.

“(2) Not less than ten days before the expiration by effluxion of time of the term of office of a Director to whom this section applies the Secretary to the Board shall notify the Minister of such prospective vacancy.”.

52.—Section 16 (as amended by section 50 of the Stock Exchange Act, 1995, and section 49 of the Investment Intermediaries Act, 1995), of the Act of 1989, is hereby amended—

Amendment of section 16 of Act of 1989.

(a) by the substitution of the following for paragraph (e) of subsection (2)—

“(e) made to an authority in a jurisdiction other than that of the State duly authorised to exercise functions similar to any one or more of the statutory functions of the Bank and which has obligations in respect of non-disclosure of information similar to the obligations imposed on the Bank under this section and the Bank may require from a person it supervises any information for the purposes of assisting the authority in the jurisdiction other than the State, but the Bank may only require such information where the information requested is to assist the authority in the jurisdiction other than the State in the carrying out of its regulatory functions.”,

(b) by the insertion after subsection (2) (o) of the following paragraphs:

“(p) made to an officer of statistics as defined by section 20 of the Statistics Act, 1993, in connection with the collection, compilation, analysis or interpretation of data relating to balance of payments, national accounts or any other financial statistics for these purposes,

(q) made for the purpose of complying with section 57 (2) of the Criminal Justice Act, 1994,

(r) where the Bank is in receipt of information from an authority in a jurisdiction other than the State duly authorised to exercise functions similar to one or more of the statutory functions of the Bank and made with the permission of that authority,

(s) made to the Comptroller and Auditor General, or an officer, that is required for the performance of his functions,

(t) made to the European Monetary Institute where such disclosure is required in accordance with the Treaty on European Union,

(u) made to the Minister for the Environment for the purposes of his or her functions under the national housing programme, in respect of a mortgage lender.”,

and

(c) by the insertion after subsection (6) of the following subsection:

“(7) An officer of statistics who receives information from the Bank under section 16 (2) (p) shall be bound by the provisions of this section with regard to the disclosure of that information.”.

53.—Section 47 of the Act of 1989 shall apply—

(a) to every financial institution to which Chapter VII of Part II of the Act of 1989 relates,

[1997.] *Central Bank Act, 1997.* [No. 8.]

(b) to every exchange to which Chapter VIII of Part II of the Act of 1989 relates and every member of that exchange, and

(c) to every person authorised by the Bank to carry on money broking business,

as if each such institution, exchange, member or person so authorised were the holder of a licence for the purposes of the *Central Bank Acts, 1942 to 1997.*

54.—Section 48 of the Act of 1989, is hereby amended by the insertion of the following subsection after subsection (3):

Amendment of section 48 of Act of 1989.

“(4) The Bank shall be notified of any application for a petition for the winding up of the holder of a licence before the petition is presented.”.

55.—Section 75 of the Act of 1989 is hereby amended by the insertion of the following paragraph after paragraph (a) of subsection (2):

Amendment of section 75 of Act of 1989.

“(aa) the acquiring transaction is being entered into with the prior approval of the Bank in the interests of the proper and orderly regulation of banking or financial markets in the State, or”.

56.—Section 76 of the Act of 1989 is hereby amended by designation of that section as subsection (1) thereof and by the insertion of the following subsection:

Amendment of section 76 of Act of 1989.

“(2) A person may apply to the Court for an order, on such conditions as the Court may decide, declaring that, notwithstanding the failure of that person to notify the Bank as required by this Chapter, the acquiring transaction is, and always had been, a valid transaction and that title to any shares or other interest concerned did pass and that all purported exercise of powers is and always had been valid, and if the Court finds that the failure to notify the Bank of the proposed acquiring transaction was due to inadvertence on the part of the person, or if the Court considers that it is otherwise in the interest of justice to do so, it shall grant the order sought.”.

57.—Section 90 of the Act of 1989 is hereby amended by designation of that section as subsection (1) thereof and by the insertion of the following subsection:

Amendment of section 90 of Act of 1989.

“(2) The Bank may apply from a date specified in writing by it any or all of the provisions of this Part to any person who has applied for a certificate under section 39B (inserted by section 30 of the Finance Act, 1987) of the Finance Act, 1980, where the Bank is of the opinion that the application of these provisions to that person is necessary in the interests of the proper and orderly regulation of the Custom House Docks Area (within the meaning of section 41 of the Finance Act, 1986) and this Part shall have full effect as if that person were a person to whom a certificate had been given by the Minister.”.

58.—Section 91 of the Act of 1989 is hereby amended by the insertion of the following subsection after subsection (2):

Amendment of section 91 of Act of 1989.

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pt.VII S.58

“(3) Notwithstanding subsection (1), an order under this section may provide that—

- (a) the provisions of this Chapter shall not apply to financial institutions of a specified class or financial institutions engaged in a specified class of business, or
- (b) the provisions of this Chapter shall apply to every such financial institution referred to in subparagraph (a) to the extent only specified in the order.”.

Amendment of section 92 of Act of 1989.

59.—Section 92 of the Act of 1989 is hereby amended by the insertion of the following subsections:

“(3) The Bank may decide not to impose prudential, supervisory and reporting requirements and conditions on a financial institution or a class of financial institutions where it considers that the imposition of such requirements and conditions is not necessary in the interests of the reasonable protection of the public, the financial system or a sector thereof, or otherwise in the interests of the proper and orderly regulation of the institution or class of institutions, or the Custom House Docks Area (within the meaning of section 41 of the Finance Act, 1986).

(4) Where under subsection (3) no requirements or conditions are imposed by the Bank, sections 95 and 96 shall not apply to the institution or class of institutions concerned.”.

Amendment of section 3(2) of Consumer Credit Act, 1995.

60.—Section 3 (2) of the Consumer Credit Act, 1995, is hereby amended by the insertion of the following paragraph after paragraph (a):

“(aa) any transaction or proposed transaction conducted in the course of relevant trading operations within the meaning of section 39A (inserted by section 17 of the Finance Act, 1981) of the Finance Act, 1980, or within the meaning of section 39B (inserted by section 30 of the Finance Act, 1987) of the Finance Act, 1980.”.

Amendment of Part II, Chapter VII of Act of 1989.

61.—The Act of 1989 is hereby amended by the insertion of the following section after section 96:

“Application of this Part to certain classes of financial institution.

96A.—The provisions of this Chapter shall continue to apply to a financial institution which has had its certificate revoked by the Minister, or has surrendered its certificate, until such time as the institution has discharged its liabilities in whole or in part to the satisfaction of the Bank.”.

Amendment of section 104 of Act of 1989.

62.—Section 104 of the Act of 1989 is hereby amended by the insertion of the following subsection after subsection (3):

“(4) A prospectus or other document advertising the services of an exchange shall contain a statement in a prominent position in such form or manner approved by the Bank and containing such particulars for the protection of subscribers relating to the approval or otherwise of the rules of the exchange and its proposed establishment as the Bank may direct in writing.”.

63.—Section 139 of the Act of 1989 is hereby amended by the substitution of the following subsection for subsection (1):

Pr.VII
Amendment of
section 139 of Act
of 1989.

“(1) Notwithstanding anything to the contrary contained in any enactment, or in any prospectus or other document relating to the terms of issue, holding or transfer of any securities or other instruments, the issue or the transfer of such securities or other instruments may be made and shall be effective if instructions for the issue or transfer are communicated by electronic means and any issue or transfer of securities shall be deemed to be effective if recorded in a computerised system established by the Bank or any agent of the Bank, without the need for instructions in writing.”.

64.—Section 3 of the Bretton Woods Agreements Act, 1957, is hereby amended in subsection (7) by the deletion of:

Amendment of
section 3 of Bretton
Woods Agreements
Act, 1957.

“and may advance to the Minister for Finance any sum or sums required for payments under this section”,

and that subsection, as so amended, is set out in the Table to this section.

TABLE

(7) The Central Bank of Ireland shall act as a depository for the holdings of currency of the State and other assets of the Fund and the Bank.

65.—Section 3 of the International Finance Corporation Act, 1958, is hereby amended in subsection (6) by the deletion of:

Amendment of
section 3 of
International
Finance
Corporation Act,
1958.

“and may advance to the Minister for Finance any sum or sums required for payments under this section”,

and that subsection, as so amended, is set out in the Table to this section.

TABLE

(6) The Central Bank of Ireland shall act as a depository for the holdings of currency of the State and other assets of the Corporation.

66.—Section 3 of the International Development Association Act, 1960, is hereby amended in subsection (7) by the deletion of:

Amendment of
section 3 of
International
Development
Association Act,
1960.

“and may advance to the Minister for Finance any sum or sums required for payments under this section”,

and that subsection, as so amended, is set out in the Table to this section.

TABLE

(7) The Central Bank of Ireland shall act as a depository for the holdings of currency of the State and other assets of the Association.

67.—Section 3 of the Multilateral Investment Guarantee Agency Act, 1988, is hereby amended in subsection (5) by the deletion of:

Amendment of
section 3 of
Multilateral
Investment
Guarantee Agency
Act, 1988.

“and may advance to the Minister for Finance any sum or sums required for payments under this section, subject to such security, rate of interest and other terms and conditions as are agreed between the Minister and the Bank”,

Pt.VII S.67

and that subsection, as so amended, is set out in the Table to this section.

TABLE

(5) The Central Bank of Ireland shall act as a depository for the holdings of currency of the State and other assets of the Agency.

Amendment of section 3 of European Bank for Reconstruction and Development Act, 1991.

68.—Section 3 of the European Bank for Reconstruction and Development Act, 1991, is hereby amended in subsection (5) by the deletion of:

“and may advance to the Minister any sum or sums required for payments under this section, subject to such security, rate of interest and other terms and conditions as are agreed between the Minister and the Central Bank of Ireland”,

and that subsection, as so amended, is set out in the Table to this section.

TABLE

(5) The Central Bank of Ireland shall act as a depository for the holdings of currency of the State and other assets of the Bank.

Amendment of Part II, Chapter II of Act of 1989.

69.—The Act of 1989 is hereby amended by the insertion in Part II, Chapter II of the following section after section 25:

“25A. (1) The Bank or any employee of the Bank or any member of its Board or any authorised person or authorised officer appointed by the Bank for the performance of its statutory functions shall not be liable for damages for anything done or omitted in the discharge or purported discharge of any of its statutory functions under this Act unless it is shown that the act or omission was in bad faith.

(2) Without prejudice to the generality of subsection (1)—

- (a) the authorisation or revocation of authorisation or supervision or regulation of any person under any of its statutory functions shall not constitute a warranty as to the solvency or performance of a person and neither the State nor the Bank shall be liable for any losses incurred through the insolvency, default or performance of such person,
- (b) the approval or revocation of approval or supervision or regulation of any exchange or the approval, amendment, revocation or imposition of rules or the consent or refusal of consent to amendments of rules under any of its statutory functions shall not constitute a warranty as to the solvency or performance of any exchange or member of any exchange and neither the State nor the Bank shall be liable for any losses incurred through the insolvency, default or performance of any exchange or member of any exchange.”.

70.—The Act of 1971 is hereby amended—

Pt.VII

Amendment of Act
of 1971.

- (a) by the deletion of subsection (1) (as amended by the European Communities (Deposit Guarantee Schemes) Regulations, 1995 (S.I. No. 168 of 1995)) of section 7 and the substitution therefor of the following subsection:

“(1) Subject to the provisions of this Act, a person, other than the Bank, shall not, in or outside the State, carry on banking business or hold himself out or represent himself as a banker or as carrying on banking business or on behalf of any other person accept deposits or other repayable funds from the public, unless he is the holder of a licence.”,

- (b) by the substitution in section 2 (as amended by section 29 of the Act of 1989) for the definition of “banking business” of the following definition:

“ ‘banking business’ means—

- (a) the business of accepting, on own account, sums of money from the public in the form of deposits or other repayable funds whether or not involving the issue of securities or other obligations, howsoever described, or
- (b) the business aforesaid and any other business normally carried on by a bank, which may include the granting of credits on own account;

but excluding—

- (i) deposits with a trader from persons employed by him in his trading business or from his customers in the normal course of his trading business and deposits or instalments in respect of the letting, leasing or selling of goods under a hire-purchase agreement, or a leasing agreement or a credit-sale agreement, or
- (ii) a sum or sums of money accepted as security or collateral or as a bond for the repayment of a debt or the performance of a contract related to goods or services, or
- (iii) a sum or sums of money accepted by way of advance or part payment under a contract for the sale, hire or other provision of goods or services, and repayable only in the event that the goods or services are not in fact sold, hired or otherwise provided, or
- (iv) a sum or sums of money accepted solely as a premium in respect of the issue or renewal of a life assurance policy issued by a holder of an authorisation under the European Communities (Life Assurance) Regulations, 1984 (S.I. No. 57 of 1984), or
- (v) a sum or sums of money accepted as a contribution within the meaning of the Pensions Acts, 1990 to 1996, or
- (vi) a sum or sums of money accepted by a person where it can be shown that—

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pt.VII S.70

(I) no part of the business activities of the person so accepting or of any other person is financed wholly or substantially out of those funds, and

(II) such funds are, in the normal course of business, accepted on a casual or incidental basis only,

or

(vii) a sum or sums of money accepted under financial contracts, (within the meaning of the Netting of Financial Contracts Act, 1995) which may include the acceptance of collateral,

and ‘banking’ and cognate words shall be construed accordingly.”,

(c) by the insertion in section 2 of the following subsection:

“(2) Where the Minister is of the opinion that it is consistent with the orderly and proper regulation of banking he may, after consultation with the Bank, by order amend this section to add thereto any category of funds or delete therefrom any category of funds mentioned therein for the time being.”,

(d) by the substitution of the following paragraph for paragraph (a) of section 8 (2) (as amended by section 31 of the Act of 1989):

“(a) Subject to such conditions, if any, as it may consider appropriate, the Bank may exempt any person or any class or classes of person from the requirement to hold a licence in respect of the issuing of any category or categories of securities or other obligations, howsoever described, where—

(i) the requirements would arise only out of the issuing of such securities or other obligations to which the definition of banking business relates; and

(ii) the Bank is of the opinion that the exemption would not conflict with the orderly and proper regulation of banking.”, and

(e) by the substitution of the following section for section 27 (as amended by section 43 of the Act of 1989 and the Regulations of 1992) of the Act of 1971:

“27.—(1) Subject to subsection (2) of this section, a person shall not advertise for or otherwise solicit deposits or other repayable funds from the public on his own behalf or on behalf of any other person.

(2) Subsection (1) of this section does not apply to advertising for or otherwise soliciting deposits or other repayable funds from the public—

(a) by the holder of a licence or the Bank or a person to whom, by virtue of section 7(4) of this Act, section 7(1) of this Act does not apply, or

(b) by a person authorised by virtue of the European Communities (Licensing and Supervision of Credit

[1997.] *Central Bank Act, 1997.* [No. 8.]

Institutions) Regulations, 1992, to carry on busi- Pr.VII S.70
ness in the State, or

(c) by any person on behalf of a person specified in paragraph (a) or (b) of this subsection.

(3) If an advertisement or other solicitation for deposits or other repayable funds from the public is published and it does not include the name and address of the person who arranged with the publisher for the advertisement or solicitation, then the Bank may, at any time within the period of twelve months after any publication of the advertisement, request the publisher to supply the name and address of that person to the Bank and the publisher shall forthwith comply with that request.

(4) In this section ‘deposits or other repayable funds from the public’ does not include the acceptance of a sum or sums of money excluded from the definition of banking business under section 2 of the Act of 1971.

(5) Reference in this section or section 58(3) of this Act (as amended by section 9 of the Act of 1989) to the solicitation of deposits, however expressed, includes every form of solicitation for deposits including, in particular, the display or publication of any such matter by way of notice, leaflet, circular, pamphlet, brochure, photograph, film, video, sound broadcasting, television, electronic communication or personal canvassing.”.

71.—Section 11 (as amended by section 34 of the Central Bank Act, 1989) of the Act of 1971 is hereby amended— Amendment of section 11 of Act of 1971.

(a) by the insertion of the following subparagraph after subparagraph (b) in subsection (1)—

“(bb) with the consent of the Minister, revoke the licence if the business of, or the corporate structure of, the holder of the licence has been so organised or the holder of the licence has come under the control of any other undertaking not supervised by the Bank such that the holder is no longer capable of being supervised to the satisfaction of the Bank.”.

(b) by the insertion of the following subsection after subsection (5)—

“(6) In this section, “control”, “fellow subsidiary”, “parent undertaking” and “subsidiary undertaking” have the meanings they have in the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992), and “associated undertaking” has the meaning it has in the European Communities (Companies: Group Accounts) Regulations, 1992 (S.I. No. 201 of 1992).”.

72.—Section 48 of the Act of 1971 is hereby amended by the substitution of the following subsection for subsection (3): Amendment of section 48 of Act of 1971.

Pt.VII S.72

“(3) The Bank shall not issue bonds to bodies other than credit institutions.”.

Amendment of section 51 of Act of 1971.

73.—(1) Section 51 of the Act of 1971 is hereby amended by the substitution of the following subparagraph for subparagraph (i) of paragraph (a) of subsection (1)—

“(i) altering the objects and powers of the Bank of Ireland by abandoning, restricting or amending any existing object or power or by adopting a new object or power, or”.

(2) This section shall be deemed to have come into operation on the 1st day of September, 1971.

Injunction to prevent an unauthorised person acting as a credit institution.

74.—The Bank may apply to the Court to seek an injunction to prohibit the continuance by any person of any contravention of section 7 (as amended by section 30 of the Act of 1989, as amended by the European Communities (Deposit Guarantee Schemes) Regulations, 1995 (S.I. No. 168 of 1995) and as amended by this Act) of the Act of 1971, or section 27 (as amended by section 43 of the Act of 1989, as amended by the Regulations of 1992 and as amended by this Act) of the Act of 1971 where such a person is not a credit institution.

Powers of inspection.

75.—(1) The powers conferred by this section may be exercised in respect of persons whom the Bank has reasonable grounds to believe have conducted or are conducting banking business or an associated undertaking or related undertaking, and these persons shall be referred to in this section as “persons to whom this section applies”.

(2) An appropriate person may, for the purpose of obtaining any information which the Bank may require to enable it to exercise any of its statutory functions, do any one or more of the following things:

- (a) at all reasonable times enter any premises, at which there are reasonable grounds to believe that any banking business or any activity in connection with banking business is, or has been, carried on or that books, records or other documents in relation to such business or activities are maintained, and search and inspect the premises and any books, records or other documents on the premises;
- (b) secure for later inspection any premises or any part of a premises in which books, records or other documents are kept or in which there are reasonable grounds for believing that such books, records or other documents are kept;
- (c) inspect and take copies of or extracts from or, subject to a warrant being issued for that purpose by a judge of the District Court, remove for a reasonable period for further examination any books, records or other documents which the appropriate person found in the course of an inspection;
- (d) require any person who carries on such banking business and any person employed in connection therewith to give to the appropriate person such information as the appropriate person may reasonably require in relation to any entries in such books, records or other documents;

- (e) require any such person to give to the appropriate person any information which the appropriate person may require in regard to banking business or in regard to the persons carrying on such banking business or employed in connection therewith;
 - (f) require any such person to give to the appropriate person any other information which the appropriate person may reasonably require in regard to such banking business;
 - (g) require any person 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 appropriate person reasonable assistance in relation thereto;
 - (h) summon, at any reasonable time, any other person employed in connection with the banking business to give to the appropriate person any information which the appropriate person may reasonably require in regard to such activity and to produce to the appropriate person any books, records or other documents which are in that person's power or control;
 - (i) require any person employed in the premises to prepare a report on specified aspects of the business of the persons to whom this section applies or to explain entries in any documents or other materials furnished.
- (3) A person who has in his or her power, possession or procurement any books, records or other documents aforesaid shall—
- (a) produce them at the request of an appropriate person and permit him or her to inspect and take copies of, or extracts from such books, records and documents,
 - (b) at the request of an appropriate person, give any information which may be reasonably required with regard to such books, records and documents, and
 - (c) give such other assistance and information to an appropriate person as is reasonable in the circumstances.
- (4) Where any person from whom the production of a book, record or other document is required claims a lien thereon the production of any such book, record or other document shall be without prejudice to the lien.
- (5) Nothing in this section shall compel the production by a barrister or solicitor of a book, record or other document containing a privileged communication made by him or her or to him or her in that capacity or the furnishing of information contained in a privileged communication so made.
- (6) The duty to produce or provide any information, document, material or explanation extends to an examiner, liquidator, receiver, official assignee or any person who is or has been an officer or employee or agent of the persons to whom this section applies, or who appears to the Bank or the appropriate person to have the information, document, material or explanation in his or her possession or under his or her control.

Pt.VII S.75

(7) If a person to whom this section applies refuses to produce to an appropriate person when requested to do so any book or document which it is his or her duty under this section to produce, or refuses to co-operate with an appropriate person when required to do so, or refuses to answer any questions put to him or her by an appropriate person with respect to the affairs of the person to whom this section applies, the appropriate person may certify the refusal under his or her hand to the Court and the Court may thereupon inquire into the case and after hearing any witnesses who may be produced against or on behalf of the officer, employee, shareholder or other agent of the person to whom this section applies and any statement which may be offered in defence, make any order or direction as it thinks fit, including a direction to the person concerned to attend or re-attend before the appropriate person or produce particular books or documents or answer a particular question put to him or her by the appropriate person, 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 appropriate person.

(8) In this section and in *section 76*:

(i) “appropriate person” means—

(I) an officer of the Bank, or

(II) in relation to any particular inspection (including a proposed inspection), any other person who in the opinion of the Governor possesses appropriate qualifications or experience to carry out the inspection, or any part thereof, to which this section relates;

(ii) “premises” includes any land or building and includes a vessel, aircraft or motor vehicle.

Search and seizure.

76.—(1) (a) If a judge of the District Court is satisfied on the sworn information of an appropriate person that there are reasonable grounds for suspecting that there are on any premises any books, records or other documents—

(i) of which production has been required under this Act, and

(ii) which have not been produced in compliance with that requirement,

the judge may issue a warrant authorising any member of the Garda Síochána, together with any other persons named in the warrant at any time or times within one month from the date of the warrant, on production if so requested of the warrant, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) and to search the premises or other place specified in the warrant and—

(I) take possession of any books or documents appearing to be such books or documents as aforesaid, or

(II) to take, in relation to any books or documents so appearing, any other steps which may appear

necessary for preserving them and preventing interference with them. Pr.VII S.76

- (b) Any books or documents of which possession is taken under this subsection may be retained for a period of three months.

(2) A person who—

- (a) obstructs or interferes with a member of the Garda Síochána acting under the authority of a warrant issued under this section, or
- (b) is found on the premises or at the place specified in the warrant by a member of the Garda Síochána acting as aforesaid and who fails or refuses to give the member his or her name or address when required to do so or gives a name and address that is false or misleading, or
- (c) who obstructs the exercise of an authority conferred by a warrant under this section to take possession of any books or documents,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both, or
- (ii) on conviction on indictment to a fine not exceeding £1,000,000 or, at the discretion of the court, to imprisonment for a term not exceeding ten years, or to both.

77.—(1) The Comptroller and Auditor General may, in relation to the Bank or any subsidiary of the Bank, carry out such examinations as he or she considers appropriate for the purposes of ascertaining— Examination by Comptroller and Auditor General.

- (a) whether and to what extent the resources of the Bank or any subsidiary of the Bank—
- (i) have been used, and
- (ii) if acquired or disposed of by the Bank or any subsidiary of the Bank, have been so acquired or disposed of, economically and efficiently,

and

- (b) whether any such disposal has been effected upon the most favourable terms available.

(2) Without prejudice to the generality of *subsection (1)*, the systems, procedures and practices employed by the Bank or any subsidiary of the Bank to evaluate the effectiveness of its operations may be examined by the Comptroller and Auditor General.

(3) The Comptroller and Auditor General may, if he or she considers it appropriate to do so, prepare a special report in writing in relation to an examination carried out by him or her under this section or any general matters arising in relation to any such examination and shall submit a copy of the report to the Minister and shall, as soon as may be, submit a copy to the Bank.

(4) The Minister shall cause a copy of a report submitted under subsection (3) to be laid before Dáil Éireann not later than three months after the date of submission to him or her.

(5) The Comptroller and Auditor General may, with the consent of the Minister, require the Bank or any subsidiary of the Bank to pay to the Comptroller and Auditor General a fee of an amount calculated on such basis as he or she may determine after consultation with the Minister in respect of an examination under this section in relation to the Bank or any subsidiary of the Bank carried out by him or her pursuant to this Act or any other enactment.

(6) A fee under this section may be recovered by the Comptroller and Auditor General as a simple contract debt in any court of competent jurisdiction.

(7) A fee paid under this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister.

(8) The Public Offices Fees Act, 1879, shall not apply in relation to a fee paid under this section.

(9) The expenses incurred by the Comptroller and Auditor General in the administration of this section shall, to such extent as may be sanctioned by the Minister, be paid out of moneys provided by the Oireachtas.

(10) The Comptroller and Auditor General or an officer of the Comptroller and Auditor General being a person referred to in section 16 (2) of the Comptroller and Auditor General (Amendment) Act, 1993, for the purpose of obtaining any information that is required for the performance of his or her functions, on production, in the case of the officer, of his or her authorisation, if so requested—

- (a) shall have access to and may take or at his or her request, shall be given such copies of or such extracts from such books, documents and records of the Bank or any subsidiary of the Bank as he or she may reasonably require,
- (b) shall have access to and may take or at his or her request, shall be given such copies of or such extracts from any data or data material of the Bank or any subsidiary of the Bank as he or she may reasonably require and may extract information from any such data,
- (c) may obtain from any officer, servant or employee of the Bank or any subsidiary of the Bank such information within his or her knowledge or control as he or she may reasonably require, including information in relation to the contents of any such books, documents or records as aforesaid, or in relation to the data aforesaid or the sources from which they are obtained or the data material aforesaid or any information extracted from such data.

(11) An officer of the Comptroller and Auditor General or person referred to in section 16 (2) of the Comptroller and Auditor General (Amendment) Act, 1993, exercising powers conferred on him or her under this section shall be authorised in writing by the Comptroller and Auditor General to exercise the powers conferred on him or her under this section for the purposes of this section.

(12) In this section “data” and “data material” have the meanings assigned to them by the Data Protection Act, 1988. Pr.VII S.77

(13) The provisions of section 16 of the Comptroller and Auditor General (Amendment) Act, 1993, shall apply in respect of the functions of the Comptroller and Auditor General under this section.

78.—The Building Societies Act, 1989, is hereby amended by the insertion after section 101 of the following section: Amendment of Building Societies Act, 1989.

“101A.—(1) This section shall apply where a conversion scheme specifies rights of members of the society entitling them to shares in the successor company, to acquire shares in the successor company in priority to other subscribers or to any distribution of the funds of the society.

(2) Notwithstanding any other provision of this Act, where—

- (a) a member held shares in the society for the whole of the specified period,
- (b) any shares held by that member were jointly held for the whole or part of the specified period,
- (c) that member is named second in the records of the society for the whole or part of the period the shares were jointly held, and
- (d) no person who has priority, in accordance with subsection (3), over the member referred to in paragraph (a) held shares in the society throughout the specified period,

the shares jointly held shall be regarded as having been held alone by the member referred to in paragraph (a).

(3) The following persons shall be regarded, for the purposes of subsection (2), as having priority over the member referred to in paragraph (a) of that subsection, namely—

- (a) where that member was the representative joint holder of the shares for part of the period the shares were jointly held, any person who was the representative joint holder for a later part of that period,
- (b) where that member was not the representative joint holder of the shares for any part of the period the shares were jointly held—
 - (i) any person who was the representative joint holder of the shares for the whole or part of the period, and
 - (ii) if, in relation to the shares jointly held, that member is named second in the records of the society for part only of the period the shares are so held, any person who was joint holder of the shares and who was named second in the records of the society for a later part of that period.

(4) Where a member dies during the specified period at a time when the name of that member appears in the records of the society as a joint holder of shares, this section shall have

Pt.VII S.78

effect in relation to any later time as if the member had never been so named.

(5) In this section—

“conversion scheme” means a conversion scheme where the conversion date falls after the passing of this Act;

“specified period” means the period beginning two years before the end of the day on which notice is given to members of the conversion resolution and ending on the day on which the conversion resolution is passed.”.

Information to be supplied by mortgage lenders.

79.—Every mortgage lender shall submit to the Minister for the Environment such information and returns within such period as that Minister may require from time to time for the purposes of his functions in relation to the national housing programme.

Amendment of Trustee (Authorised Investments) Act, 1958.

80.—The Trustee (Authorised Investments) Act, 1958, is hereby amended—

(a) by the substitution of the following section for section 2:

“Variation by order of authorised investments.

2.—(1) The Minister for Finance may by order vary by addition or deletion and may specify such conditions as he considers proper in respect of the investment of trust funds in—

(a) the investments specified in section 1 (as amended by section 1 of this Act) of the Trustee Act, 1893, or

(b) where those investments have been varied by order under this subsection or under any other statutory authority, those investments as so varied.

(2) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House, within the next subsequent twenty-one days on which it has sat after such order is laid before it, passes a resolution annulling such order, such order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) Before making an order under this section the Minister shall consult—

- (a) the President of the High Court,
- (b) the Governor of the Central Bank,
- (c) the Public Trustee,
- (d) the Chairperson of the Irish Bankers Federation,
- (e) the President of the Law Society of Ireland, and
- (f) the Chairperson of the Irish Stock Exchange,

in regard to the terms of the proposed order.

[1997.]

Central Bank Act, 1997.

[No. 8.]

(4) Nothing in this Act or in any order made under it shall authorise a trustee to do anything which he or she is expressly forbidden to do by the instrument creating the trust nor shall it prevent a trustee from doing anything which he or she is expressly permitted to do by the instrument creating the trust.”

Pr.VII S.80

and

(b) by the substitution of the following section for section 5:

“Saver for certain investments.

5.—(1) Notwithstanding anything contained in this Act where trust funds within the meaning of the Trustee Act, 1893, or money under the control of or subject to the order of any Court stand or stands invested in a manner which was authorised by law when the investment was effected but which, apart from this section, has ceased to be so authorised, authority is hereby given to continue to keep the funds or money invested in that manner.

(2) Where any condition specified in any order made under this Act would have the effect of requiring a trustee to dispose of any investment which was not in breach of any condition specified in any order made under this Act at the time the investment was effected, such trustee is hereby authorised to retain such investment.

(3) Nothing in this section shall have the effect of removing from a trustee an obligation to comply with any condition specified in any order made under this Act in respect of any investment effected by such trustee after the coming into operation of any order made under this Act.”

81.—The European Communities (Deposit Guarantee Schemes) Regulations, 1995 (S.I. No. 168 of 1995) are hereby amended—

Amendment of
European
Communities
(Deposit Guarantee
Schemes)
Regulations, 1995.

(a) in Regulation 3 (1), by the substitution in the definition of “relevant beneficial owner” of “10 per cent.” for “20 per cent.”,

and

(b) in Regulation 16 (1), by the insertion of the following after paragraph (1) (i):

“(j) deposits by financial institutions (as defined in Regulation 2 of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992);

(k) deposits by an insurer (as defined in section 2 of the Insurance Act, 1989);

(l) deposits by the Government of any State or central administrative authority;

[No. 8.] *Central Bank Act, 1997.* [1997.]

Pr.VII S.81

(m) deposits by provincial, regional, local and municipal authorities;

(n) deposits by—

(i) undertakings for collective investments in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989),

(ii) a unit trust, or

(iii) other collective investment schemes;

(o) deposits by pension and retirement funds;

(p) debt securities issued by the same institution and liabilities arising out of own acceptances and promissory notes;

(q) deposits by companies which are not permitted to draw up abridged balance sheets pursuant to section 10 (1) of the Companies (Amendment) Act, 1986, as amended by the European Communities (Accounts) Regulations, 1993 (S.I. No. 396 of 1993).”.

References to company in ICC Bank Act, 1992.

82.—(1) Each reference to the Company in section 3 (1) of the ICC Bank Act, 1992, shall be construed as including any subsidiary of ICC Bank plc which carries on its business by virtue of an order made under section 7 (4) (b) (as substituted by section 30 of the Act of 1989) of the Central Bank Act, 1971.

(2) Any Regulations made under section 3 (1) of the ICC Bank Act, 1992, shall apply equally to any such subsidiary of the Company.

Amendment of Stock Transfer Act, 1963.

83.—The Stock Transfer Act, 1963, is hereby amended—

(a) in section 2, by the substitution—

(i) in paragraphs (d) and (e) (inserted by the Stock Transfer (Forms) Regulations, 1991 (S.I. No. 77 of 1991)) of subsection (1), and

(ii) in subsection (5) (inserted by those Regulations),

for “Gilts Settlement Office”, in each place where it occurs, of “Central Bank of Ireland Securities Settlements Office”, and

(b) in section 5, by the insertion of the following subsection after subsection (4) (inserted by the Companies (Amendment) Act, 1977):

“(5) The Minister, having consulted with the Bank, may by regulation provide for the substitution for the references in that section of that name, of references to another name.”.

84.—(1) Subject to such terms and conditions as may be specified by the Bank, nothing in section 7 of the Act of 1971 shall prohibit the establishment of a representative office in the State of a credit institution that is authorised in any state other than a Member State of the European Economic Area.

Pr.VII
Representative
offices.

(2) Every representative office to which *subsection (1)* relates shall comply with each and every term or condition specified by the Bank under that subsection in the interests of the proper and orderly regulation of banking.

(3) Where the Bank is satisfied that the terms or conditions specified by the Bank under *subsection (1)* are not being complied with, it may direct the representative office to close and the office shall comply with any such direction within such period as may be specified by the Bank.

(4) A representative office shall transact no banking business in the State other than the provision of advice and information on the services provided from outside the State by the credit institution concerned.

(5) Notwithstanding anything contained in the *Central Bank Acts, 1942 to 1997*, a representative office may use in its name or title the words “bank”, “banker” or “banking” or any variant or derivative thereof, subject to such terms or conditions as may be specified by the Bank.

(6) In this section “representative office” includes a place of business not being a branch within the meaning of the Regulations of 1992.

(7) (a) A representative office to whom a direction is given under *subsection (3)* may apply in a summary manner to the Court for, and the Court may grant, an order setting aside the direction.

(b) The Bank may apply in a summary manner to the Court to have a direction by it under this section confirmed by the Court.

85.—Section 4 (3) of the Decimal Currency Act, 1969, is hereby amended by the insertion of the following paragraph:

Amendment of
Decimal Currency
Act, 1969.

“(c) paragraph (b) of this subsection shall not apply in the case of coins made for commemorative purposes and where the coins to which the order relates are composed in whole or in part of silver or gold.”.

[No. 8.] *Central Bank Act, 1997.* [1997.]

SCHEDULE

PART I

REPEALS

Section 4 (1).

Number and year (1)	Short Title (2)	Extent of Repeal (3)
No. 22 of 1942	Central Bank Act, 1942.	Sections 12, 13, 14, 23 (5) and 25 (d).
No. 3 of 1964	Central Bank Act, 1964.	Sections 1 and 3 (i).
No. 32 of 1988	Multilateral Investment Guarantee Agency Act, 1988.	Section 3 (6).
No. 16 of 1989	Central Bank Act, 1989.	Section 75 (1) (b), 138, 139 (2).
No. 1 of 1991	European Bank for Reconstruction and Development Act, 1991.	Section 3 (6).

Section 4 (2).

PART II

REVOCATION

Number and year (1)	Short Title (2)	Extent of Repeal (3)
S.I. No. 329 of 1972	European Communities (State Financial Transactions) Regulations, 1972.	Regulation 5.