



Number 2 of 1998

CENTRAL BANK ACT, 1998

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Number 2 of 1998

CENTRAL BANK ACT, 1998

AN ACT TO MAKE PROVISION FOR THE MEMBERSHIP OF THE CENTRAL BANK IN THE EUROPEAN SYSTEM OF CENTRAL BANKS AND TO AMEND AND EXTEND THE CENTRAL BANK ACTS, 1942 TO 1997, AND TO PROVIDE FOR RELATED MATTERS. [18th March, 1998]

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, 1998.

Short title,
construction and
commencement.

(2) This Act and the Central Bank Acts, 1942 to 1997, shall be construed together as one Act and may be cited together as the Central Bank Acts, 1942 to 1998.

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

2.—In this Act—

Interpretation.

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

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

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

“Act of 1997” means the Central Bank Act, 1997;

“Bank” means the Central Bank of Ireland;

“Minister” means the Minister for Finance;

“Statute” means the Statute on the European System of Central Banks and of the European Central Bank as set out in Protocol (No. 3) (annexed by the Treaty on European Union done at Maastricht on the 7th day of February, 1992) to the Treaty establishing the European Community done at Rome on the 25th day of March, 1957.

PART II

European System of Central Banks and European Central Bank

Amendment of section 5 of Act of 1942.

3.—Section 5 of the Act of 1942 is hereby amended by the substitution of the following subsection for subsection (4):

“(4) Subject to the provisions of section 5A (as inserted by the *Central Bank Act, 1998*) of this Act, the functions, powers and duties of the Bank shall be exercised and performed by the Board of Directors for and in the name of the Bank.”.

General powers of Bank.

4.—The Act of 1942 is hereby amended by the insertion of the following section after section 5:

“Performance by Bank of European System of Central Banks’ functions.

5A.—(1) The Bank shall perform any function or duty or exercise any power required by or under the provisions of the Treaty or the Statute.

(2) With effect from the date of the establishment of the European System of Central Banks, sole authority and responsibility for the performance of any function or duty or the exercise of any power conferred or imposed upon the Bank by or under the Treaty or the Statute shall be vested in the Governor.

(3) Subject to the requirements of the Treaty and the Statute, the Governor shall keep the Board informed of, and may discuss with the Board, the discharge by the Governor of the functions, duties and powers vested in the Governor under this section.

(4) Whenever the Governor is unable, by reason of absence, ill-health or any other cause to discharge the functions, duties and powers referred to in this section, or in the case of the office of the Governor becoming vacant, the authority and responsibility vested in the Governor under subsection (2) of this section shall, during such inability or vacancy, be vested in the Director General of the Bank, who shall, for the period of such inability or vacancy, exercise and perform the functions, duties and powers vested in the Governor under this section.

(5) In this Act—

‘the Treaty’ means the Treaty establishing the European Community done at Rome on the 25th day of March, 1957 (as amended by the Treaty on European Union done at Maastricht on the 7th day of February, 1992);

‘the Statute’ means the Statute of the European System of Central Banks and of the European Central Bank as set out in Protocol (No. 3) (annexed by the Treaty on European Union done at Maastricht on the 7th day of February, 1992) to the Treaty establishing the European Economic Community done at Rome on the 25th day of March, 1957.”.

[1998.]

Central Bank Act, 1998.

[No. 2.]

5.—The Act of 1942 is hereby amended by the substitution of the following section for section 6:

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Amendment of
section 6 of Act of
1942.

“6.—(1) In discharging its functions as part of the European System of Central Banks, the primary objective of the Bank shall be to maintain price stability, and without prejudice to the generality of the aforesaid, the Bank may perform such functions and exercise such powers and carry out such duties as are conferred or imposed on it by the Treaty, the Statute or any Act of the Oireachtas or instrument made thereunder.

(2) In addition to the objective referred to in subsection (1) of this section, the objectives of the Bank shall include contributing to the stability of the financial system, promoting the efficient and effective operation of payment and settlement systems and discharging such other functions, duties and powers as are conferred or imposed on it by the Treaty, the Statute or any Act of the Oireachtas or instrument made thereunder.

(3) Without prejudice to the functions, powers and duties vested in the Bank immediately before the appointed day, the Bank shall have the general function and duty of taking (within the limit of the powers for the time being vested in it and, where appropriate, having regard to the provisions of the Treaty and the Statute) such steps as the Board may from time to time deem appropriate and advisable towards the discharge of any functions, powers and duties vested by law in the Board.

(4) The Minister may, on such occasions as he thinks proper, request the Governor on behalf of the Board or the Board to consult with the Minister in regard to the execution and performance by the Bank of any function and duty imposed on the Bank, other than those imposed by the Treaty or the Statute, and the Board shall comply with every such request.

(5) Subject to the requirements of the Treaty, the Statute, the Central Bank Acts, 1942 to 1997, and any other enactment, the Minister may, on such occasions as he shall think proper, request the Governor on behalf of the Board or the Board to inform the Minister in regard to the pursuit of the primary objective imposed on the Bank by subsection (1) of this section, and the Board shall comply with every such request.

(6) Without prejudice to the objective of maintaining price stability, the Bank shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of the Treaty.”.

6.—Section 7 (as substituted by section 21 of the Act of 1997) of the Act of 1942 is hereby amended—

Amendment of
section 7 of Act of
1942.

(a) by the repeal of paragraph (g), and

(b) by the insertion after paragraph (m) of the following paragraphs:

“(mm) transfer assets, income or liabilities to the European Central Bank where required to under the Statute;

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(*mmm*) exercise any power or perform any task or duty conferred on the Bank by or under the Treaty or the Statute;”.

Removal of Governor.

7.—Section 21 of the Act of 1942 is hereby amended—

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

“(2) If the Board, by unanimous vote of all the Directors, requests the President to remove the Governor from office on stated grounds of serious misconduct, it shall be lawful for the President on the advice of the Government to remove the Governor from office for such stated grounds and the removal shall take immediate effect from the date of the publication of the decision to remove the Governor from office or of the notification of that decision to the Governor.”,

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

“(3) Any decision, taken in accordance with this section, to remove a Governor may be subject to referral to the European Court of Justice in such a manner and for such reasons as are consistent with Article 14.2 of the Statute.”.

Furnishing of information to Bank.

8.—The Act of 1971 is hereby amended by the substitution of the following subsection for subsection (1) of section 18 (as substituted by section 37 of the Act of 1989):

“(1) A holder of a licence, any reporting agent designated by the European Central Bank (in this section referred to as a ‘reporting agent’) and any person carrying on a business—

(a) of an associated enterprise to which subsection (3) of this section relates,

(b) in respect of which that person is, by virtue of section 7 (4) (a) (ii) of this Act, exempted from the obligation to hold a licence,

(c) as an investment trust company,

(d) as a moneybroker,

(e) as a financial intermediary, or

(f) of issuing, holding or otherwise participating in any market in financial instruments including those to which Chapter VIII of the Central Bank Act, 1989, applies,

shall each furnish the Bank—

(i) at such times as the Bank or, in the case of a reporting agent, the Bank or the European Central Bank, may specify from time to time, such information and returns concerning the business to which the licence relates or the activities of a reporting agent or the carrying on of a business as aforesaid by such person, as the case may be, as the Bank or, in the case of a reporting agent, the Bank or the European Central Bank, may specify from

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Central Bank Act, 1998.

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time to time, being information and returns which the Bank considers it necessary to have for the due performance of the functions of the Bank imposed on it by law or, in the case of a reporting agent, the Bank or the European Central Bank, and

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- (ii) within such period as the Bank or, in the case of a reporting agent, the Bank or the European Central Bank, may specify, any information and returns (not being information or returns specified under subparagraph (i) of this subsection) concerning the business to which the licence relates or the activities of a reporting agent or the carrying on of a business as aforesaid by such person, as the case may be, that the Bank or, in the case of a reporting agent, the Bank or the European Central Bank, may request in writing, being information and returns which the Bank considers it necessary to have for the due performance of the functions of the Bank imposed on it by law or, in the case of a reporting agent, the Bank or the European Central Bank.”.

9.—Section 23 (as amended by section 40 of the Act of 1989) of the Act of 1971 may be applied by the Bank to persons or classes of persons in the State specified under Article 19.1 of the Statute in pursuance of a requirement of the European Central Bank.

Minimum reserves.

10.—Section 16 (as amended by section 50 of the Stock Exchange Act, 1995, section 49 of the Investment Intermediaries Act, 1995, and section 52 of the Act of 1997) of the Act of 1989 is hereby amended—

Disclosure of information to European Central Bank.

- (a) by the substitution of the following subsection for subsection (1)(b):

“(b) the Bank’s activities in respect of the pursuit of its objectives as set out in section 6 (as amended by section 5 of the *Central Bank Act, 1998*) of the Central Bank Act, 1942.”,

- (b) by the substitution of the following subparagraphs for subparagraph (t) of subsection (2):

“(t) made to the European Monetary Institute or to the European Central Bank where such disclosure is required in accordance with the Treaty or the Statute,

(tt) made to an auditor to which section 11 of the *Central Bank Act, 1998*, applies,”,

- (c) by the substitution of the following paragraph for paragraph (II) of subsection (2)(ii):

“(II) the issue by the Bank or by the European Central Bank of legal tender, or”,

and

- (d) by the substitution of the following paragraph for paragraph (III) of subsection (2)(ii):

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“(III) the pursuit by the Bank of its objectives under section 6 (as amended by *section 5* of the *Central Bank Act, 1998*) of the Principal Act.”.

Auditing of accounts of Bank.

11.—Notwithstanding section 19 of the Act of 1989, the accounts of the Bank may be audited in accordance with Article 27 of the Statute and the Bank shall provide any auditors appointed in accordance with that Article, with full information, books and records.

General fund.

12.—Section 23 of the Act of 1989 is hereby amended by the insertion after subsection (4) of the following subsections:

“(5) Any claims on or liabilities to the European Central Bank shall be treated as assets or liabilities of the general fund or such other fund as may be established by order of the Minister for that purpose.

(6) Regulations under subsection (2) may provide for any matter arising from the implementation of Chapters VI, VIII and IX of the Statute.

(7) In exercising the powers conferred on the Minister by subsections (2) and (4), the Minister shall have regard to the powers, functions and duties conferred on the Bank by or under the Treaty and the Statute.

(8) In this Act—

‘the Treaty’ means the Treaty establishing the European Community done at Rome on the 25th day of March, 1957 (as amended by the Treaty on European Union done at Maastricht on the 7th day of February, 1992);

‘the Statute’ means the Statute of the European System of Central Banks and of the European Central Bank as set out in Protocol (No. 3) (annexed by the Treaty on European Union done at Maastricht on the 7th day of February, 1992) to the Treaty establishing the European Community done at Rome on the 25th day of March, 1957.”.

Amendment of section 24 of Act of 1989.

13.—The Act of 1989 is hereby amended by the deletion of subsections (2) and (3) of section 24.

Amendment of section 5 of Decimal Currency Act, 1969.

14.—The Decimal Currency Act, 1969 is hereby amended by the substitution of the following section for section 5:

“5.—Every coin provided under section 3 or 4 of this Act shall be issued by the Minister through the Central Bank, subject to approval by the European Central Bank of the volume of issue.”.

PART III

Miscellaneous

Amendment of section 44 of Act of 1971.

15.—The Act of 1971 is hereby amended by the substitution of the following section for section 44 (as substituted by section 120 of the Act of 1989):

[1998.]

Central Bank Act, 1998.

[No. 2.]

“44.—It shall be lawful for the Bank, with the authority of the European Central Bank, to issue legal tender notes.”

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16.—The Central Bank Act, 1989, is hereby amended by the substitution of the following section for section 118:

Amendment of section 118 of Act of 1989.

“118.—(1) It shall be lawful for the Bank to provide and issue in accordance with this Part notes to be known and in this Part referred to as legal tender notes for the following denominations, namely, £1, £5, £10, £20, £50, £100 and any other denomination in the Irish pound or in the euro unit for which the European Central Bank has authorised the issue in accordance with Article 105a of the Treaty and such notes and other notes denominated in the euro unit for which the European Central Bank has authorised the issue in accordance with Article 105a of the said Treaty shall be current in the State and shall be legal tender in the State for the payment of any amount.

(2) Every legal tender note shall be of such form, size and design and printed in such a manner and on such paper and numbered and authenticated in such manner as stood prescribed before the commencement of this section or as may be prescribed thereafter from time to time for the purpose of this section.

(3) Any legal tender note of any denomination provided and issued at any time under the Currency Act, 1927, or any subsequent Act shall continue to be current in the State and shall continue to be legal tender in the State for the payment of any amount.

(4) In this section—

‘euro unit’ has the meaning assigned to it by Council Regulation No. 1103/97 of 17 June, 1997, on certain provisions relating to the introduction of the euro;

‘paper’ includes any material capable of being printed upon;

‘prescribed’ means in the case of notes prescribed before the commencement of this section prescribed by the Bank with the sanction of the Minister and in all other cases prescribed by the Bank with the sanction of the European Central Bank.”

17.—The Act of 1997 is hereby amended by the substitution of the following section for section 24:

Functions and duties of Governor.

“24.—(1) Subject to the requirements of the Treaty and of the Statute, the Governor of the Bank shall, if so requested, attend before a Joint Committee of the Oireachtas 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 the Governor by virtue of the Central Bank Acts, 1942 to 1997, and any other enactment.

(2) In this Act—

‘the Treaty’ means the Treaty establishing the European Community done at Rome on the 25th day of March, 1957 (as

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amended by the Treaty on European Union done at Maastricht on the 7th day of February, 1992);

‘the Statute’ means the Statute of the European System of Central Banks and of the European Central Bank as set out in Protocol (No. 3) (annexed by the Treaty on European Union done at Maastricht on the 7th day of February, 1992) to the Treaty establishing the European Community done at Rome on the 25th day of March, 1957.’.

Amendment of section 26 of Act of 1997.

18.—The Act of 1997 is hereby amended by the substitution of the following section for section 26:

“26.—Section 19 of the Act of 1942 is hereby amended—

(a) in subsection (4):

(i) by the substitution of the following paragraph for paragraph (b)—

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

and

(ii) by the substitution of the following paragraph for paragraph (c):

‘(c) if, at the time of appointment he is the director of any credit institution, financial institution or insurance undertaking, he shall divest himself of such directorship within ten days after his appointment and if he fails so to do he shall at the expiration of such ten days be disqualified from holding the office of Governor;’,

and

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

‘(5) In this section and section 20—

‘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 or the European Central Bank;

‘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.’.

[1998.]

Central Bank Act, 1998.

[No. 2.]

19.—Section 134 of the Act of 1989 is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

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Amendment of
section 134 of Act
of 1989.

“(1) Whenever the Minister considers it necessary in the national interest, he may, after consulting the Bank, give a direction that in respect of a specified day or days a person to whom the direction relates shall not effect in the course of business any transaction, or any transaction of such a kind, as may be specified in the direction.

(2) The Minister may after consulting the Bank grant an exemption from all or part of a direction under this section to any person to whom it relates where he is satisfied that such an exemption would not adversely affect the national interest.”.

20.—Section 15 of the Act of 1989 is hereby amended by the insertion in subsection (5), after paragraph (b), of the following paragraph:

Amendment of
section 15 of Act of
1989.

“(bb) A scheme established under paragraph (a) or (b) may include provision for the establishment by the Bank of a fund, administered by trustees appointed by the Bank, from which superannuation benefits payable under that scheme shall be paid and, on the establishment of that fund, the Bank shall transfer to that fund, within 5 days of its establishment, such sum as has accrued to the Superannuation Reserve of the Bank, being a Reserve, established under the Central Bank of Ireland (Surplus Income) Regulations, 1943 (S.I. No. 93 of 1943), and Article 5(b) of those Regulations shall stand revoked on the day that the transfer takes place and for the avoidance of doubt the Bank may thereafter transfer to that fund such monies as are provided for in the scheme to be so transferred.”.