



Number 12 of 2001

ACC BANK ACT, 2001

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REPEALS AND REVOCATIONS

[No. 12.] *ACC Bank Act, 2001.* [2001.]

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ACC BANK ACT, 2001

AN ACT TO MAKE PROVISION IN RELATION TO ACC BANK PUBLIC LIMITED COMPANY INCLUDING, INCREASING THE AUTHORISED SHARE CAPITAL OF THE BANK, THE ISSUE OF SHARES IN THE BANK IN CONNECTION WITH AN EMPLOYEE SHARE OWNERSHIP TRUST FOR THE BENEFIT OF ITS EMPLOYEES, THE DISPOSAL BY THE MINISTER FOR FINANCE OF SHARES IN THE BANK AND PROVISION IN RELATION TO CERTAIN GUARANTEES OF THE BANK'S BORROWING, TO PROVIDE FOR THE REPEAL TO THE EXTENT PROVIDED FOR OF THE ACC BANK ACTS, 1978 TO 1999, AND THE PROVISIONS OF CERTAIN OTHER ENACTMENTS AND THE REVOCATION OF CERTAIN STATUTORY INSTRUMENTS AND TO PROVIDE FOR RELATED MATTERS. [29th May, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“ACC” means ACC Bank public limited company;

“holding company” and “subsidiary” means holding company and subsidiary (within the meaning of section 155 of the Companies Act, 1963) of ACC;

“Minister” means Minister for Finance;

“shares” means shares in ACC;

“trust” means an employee share ownership trust to which section 519 of the Taxes Consolidation Act, 1997, applies and which is a trust to acquire and hold shares, or shares in a holding company, for the benefit of employees of ACC or a subsidiary.

(2) In this Act—

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

S.1 (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to any enactment is a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

Expenses of Minister. 2.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Amendment of section 11 of Agricultural Credit Act, 1978. 3.—Section 11 of the Agricultural Credit Act, 1978, is amended by the substitution for subsection (1) (inserted by section 7 of the ACC Bank Act, 1992) of the following subsection:

“(1) The share capital of the Corporation shall be £100,000,000 divided into shares of £1 each.”.

Disposal and issue of shares in ACC in connection with a trust. 4.—(1) Notwithstanding anything to the contrary in the ACC Bank Acts, 1978 to 1999, ACC may, in connection with a trust, issue such number of new shares, of such class or classes and upon and subject to such terms and conditions, as ACC may determine and may attach to any new shares any preferential, deferred, qualified or special rights, privileges, conditions or restrictions in accordance with the Companies Acts, 1963 to 1999.

(2) The Minister may, for the purposes of a trust and in such manner and upon and subject to such terms and conditions as he or she may determine, sell or otherwise transfer to employees of ACC or a subsidiary, or to the trustees of a trust, shares held by him or her.

(3) Section 60 of the Companies Act, 1963, shall not apply to the provision, whether directly or indirectly, by—

(a) ACC or a subsidiary, or

(b) a holding company or another subsidiary of a holding company,

of money or financial assistance (including a loan or guarantee or the provision of security or otherwise) at any time in connection with the acquisition (whether by purchase or exchange) of or subscription for shares, or shares in a holding company, being an acquisition of or subscription for such shares in accordance with a trust or the transfer to a trust of such shares, irrespective of whether or not all or a portion of such shares are pledged as security or otherwise to any third party.

(4) Moneys received by the Minister in respect of the disposal of shares by the Minister shall be paid into or disposed of for the benefit of the Exchequer.

Disposal of shares in ACC. 5.—(1) Subject to this section, the Minister may, subject to *subsection (2)*, sell, exchange, transfer or otherwise dispose of any or all of the shares held by the Minister in ACC in such manner and upon and subject to such terms and conditions as he or she may determine and may, for the purposes aforesaid, enter into agreements and arrangements.

(2) The Minister shall obtain a motion of approval from Dáil S.5 Éireann prior to making a disposal under *subsection (1)*.

(3) This section does not apply to a sale or transfer under *section 4* or *section 11(6)* of the Agricultural Credit Act, 1978, of shares held by the Minister.

(4) Moneys received by the Minister in respect of the disposal of shares by the Minister shall be paid into or disposed of for the benefit of the Exchequer.

6.—(1) Notwithstanding the repeal of the ACC Bank Acts, 1978 to 1999, but subject to *subsection (2)*, a guarantee given by the Minister under *section 14* of the Agricultural Credit Act, 1978, that is in force on the commencement of this subsection shall continue in force upon the terms and conditions upon and subject to which it was given until—

Provisions in relation to guarantees of Minister under *section 14* of Agricultural Credit Act, 1978.

- (a) the repayment by ACC of the principal amount on such commencement of the moneys borrowed by, or deposited with, it to which the guarantee relates, the payment by ACC of the interest on any such moneys and the payment by ACC of any other amounts to which the guarantee relates,
- (b) the payment by the Minister of the amount, or the amount remaining, to which the guarantee relates,
- (c) the Minister otherwise ceases to be under any actual or contingent liability under the guarantee, or
- (d) the giving of a guarantee, acceptable to the lender or depositor concerned, by another person for the due repayment by ACC of the moneys aforesaid and for the payment by ACC of the interest aforesaid and of the other amounts (if any) aforesaid.

(2) ACC shall not, and shall ensure that no person acting on its behalf shall, after the commencement of *subsection (1)*, borrow or raise any moneys, or solicit or accept a deposit of moneys (including a renewal of such a deposit), on terms that all or part of the moneys borrowed, raised or deposited or moneys representing the interest thereon or any moneys connected therewith are or will be the subject of a guarantee under *section 14* of the Agricultural Credit Act, 1978, and shall, if and whenever so required by the Minister, give, in such form and manner as the Minister may determine, notice to this effect and notice of any termination by the Minister (which shall be subject to *subsection (1)*) of guarantees under the said *section 14*.

(3) The Minister shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee referred to in *subsection (1)* that is in force upon such expiration—

- (a) particulars of the guarantee,
- (b) in case any payment has been made by the Minister under the guarantee during that year, the amount of the payment and the amount (if any) repaid to the Minister in respect of the payment,

S.6 (c) the amount of the principal covered by the guarantee which was outstanding at the end of that year.

(4) An amount equal to the amount of any moneys paid by the Minister under a guarantee referred to in *subsection (1)* shall be repaid to the Minister by ACC (with, if the Minister so requires, the payment to him or her by ACC of interest thereon at such rate as the Minister appoints) within such period and upon such terms and conditions as the Minister may determine.

(5) Where the whole or any part of moneys required by *subsection (4)* to be repaid to the Minister has not been repaid in accordance with that subsection, the amount remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

(6) Notwithstanding the provision of moneys under *subsection (5)* to repay an amount to the Central Fund, ACC shall remain liable to the Minister in respect of that amount and that amount (with, if the Minister so requires, interest thereon at such rates as the Minister appoints) shall be repaid to the Minister by ACC at such times and in such instalments as the Minister appoints and, in default of repayment as aforesaid and without prejudice to any other method of recovery, shall be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction and on a winding-up of ACC shall, notwithstanding anything contained in any agreement or any enactment, rank *pari passu* with the debts of all other unsecured creditors of ACC.

(7) Moneys repaid by ACC to the Minister, or recovered from ACC by the Minister, under this section shall be paid into or disposed of for the benefit of the Exchequer.

(8) All moneys from time to time required by the Minister to meet sums which may become payable by him or her under this section shall be advanced out of the Central Fund or the growing produce thereof.

(9) A notice under this section may be given by registered post or in any other manner.

Alteration of memorandum and articles of association of ACC.

7.—ACC shall take such steps under the Companies Acts, 1963 to 1999, as may be necessary to alter its memorandum and articles of association to make them consistent with this Act.

Registration of Title Act, 1964.

8.—(1) Section 23 of the Registration of Title Act, 1964, shall not apply to ACC.

(2) All estates and interests in freehold land and all leasehold interests in land which, before the commencement of this section, have been conveyed, granted or assigned to or otherwise acquired by or vested in ACC (and which have not been disposed of by ACC on commencement of this section) shall vest in ACC notwithstanding that ownership of such estates and interests has not been registered in the Land Registry in accordance with sections 23 and 25 of the Registration of Title Act, 1964.

Chattel mortgages.

9.—(1) Section 23(1) of the Agricultural Credit Act, 1978, is amended by—

(a) the deletion of “recognised bank”, and

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(b) the substitution for the definition of “recognised lender” of S.9 the following definition—

“‘recognised lender’ means a credit institution authorised under the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992).”.

(2) Section 25 of the Agricultural Credit Act, 1978, is repealed.

10.—The Insurance (Amendment) Act, 1978, is amended by the substitution for section 2 (inserted by section 12 of the ACC Bank Act, 1992, and as amended by section 7(1) of the ICC Bank Act, 2000) of the following section: Amendment of section 2 of Insurance (Amendment) Act, 1978.

“2.—(1) This Act applies to any bond or any contract of suretyship or guarantee which is given, or is entered into, as surety or guarantor by a licensee in the course of his banking business, or which is in the course of his banking business given or entered into, as surety or guarantor, by a person resident outside the State to satisfy, and only for the purposes of, a requirement which is both a requirement of a licensee, and made solely for the purposes of securing financial facilities to be made available by that licensee.

(2) In this section—

‘banking business’ has the meaning assigned to it by section 2 (as amended by section 70 of the Central Bank Act, 1997) of the Central Bank Act, 1971;

‘licensee’ means the holder of a licence granted under section 9 of the Central Bank Act, 1971.”.

11.—(1) Section 3(2)(b) (inserted by section 6 of the Companies (Amendment) (No. 2) Act, 1999) of the Companies (Amendment) Act, 1990, is amended by the substitution for paragraph (b) of the following paragraph: Amendment of section 3 of Companies (Amendment) Act, 1990.

“(b) Where the company referred to in section 2 is—

- (i) the holder of a licence under section 9 of the Central Bank Act, 1971,
- (ii) a company which a building society has converted itself into under Part XI of the Building Societies Act, 1989,
- (iii) a company which one or more trustee savings banks have been reorganised into pursuant to an order under section 57 of the Trustee Savings Banks Act, 1989, or

(iv) the ACC Bank public limited company,

a petition under section 2 may be presented only by the Central Bank, and subsection (1) of this section shall not apply to the company”.

(2) Section 3(2)(b) (inserted by *subsection (1)*) of the Companies (Amendment) Act, 1990, is amended by the substitution for paragraph (b) of the following paragraph:

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“(b) Where the company referred to in section 2 is—

- (i) the holder of a licence under section 9 of the Central Bank Act, 1971,
- (ii) a company which a building society has converted itself into under Part XI of the Building Societies Act, 1989, or
- (iii) a company which one or more trustee savings banks have been reorganised into pursuant to an order under section 57 of the Trustee Savings Banks Act, 1989,

a petition under section 2 may be presented only by the Central Bank, and subsection (1) of this section shall not apply to the company.”.

Repeals and revocations.

12.—(1) The enactments mentioned in *column (2)* of *Part 1* of the *Schedule* are repealed to the extent mentioned in *column (3)* of that Part.

(2) The statutory instruments mentioned in *column (2)* of *Part 2* of the *Schedule* are revoked to the extent mentioned in *column (3)* of that Part.

Short title and commencement.

13.—(1) This Act may be cited as the ACC Bank Act, 2001.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions (including the application of *section 12* to different enactments and statutory instruments specified in the *Schedule* and to different provisions of those enactments and instruments).

SCHEDULE

Section 12.

REPEALS AND REVOCATIONS

PART 1

ENACTMENTS REPEALED

Year and Chapter or Number and Year (1)	Title of Act (2)	Extent of Repeal (3)
1879, c.11	Bankers' Books Evidence Act, 1879	Section 9(1)(f).
1882, c.61	Bills of Exchange Act, 1882	In section 2, in the definition of "Banker", paragraph (c).
No. 36 of 1929	Civil Service (Transferred Officers) Compensation Act, 1929	In section 16(3)(c) and in item 12(c) of the First Schedule, the words "or the Agricultural Credit Corporation, Limited,".
No. 39 of 1934	Agricultural Co-operative Societies (Debentures) Act, 1934	Sections 2(1)(c) and 7.
No. 28 of 1935	Finance Act, 1935	In section 33(6), in the definition of "banker", the words "the Agricultural Credit Corporation Limited".
No. 39 of 1936	Superannuation Act, 1936	Section 25.
No. 14 of 1970	Finance Act, 1970	In section 39 (1), in the definition of "securities", the words "and certificates of charge under the Agricultural Credit Acts, 1927 to 1965".
No. 24 of 1971	Central Bank Act, 1971	In section 7(4)(a)(ii) (inserted by section 30 of the Central Bank Act, 1989), the words "the Agricultural Credit Corporation public limited company,".
No. 19 of 1973	Finance Act, 1973	In section 60(1), in the definition of "securities", the words "and certificates of charge under the Agricultural Credit Acts, 1927 to 1972".
No. 8 of 1976	Capital Acquisitions Tax Act, 1976	In section 61(7), in the definition of "banker", the words "the Agricultural Credit Corporation Limited".
No. 2 of 1978	Agricultural Credit Act, 1978	Parts II, IV (other than as respects charges on land given in favour of ACC before the commencement of this repeal) and V.
No. 19 of 1979	European Assembly (Irish Representatives) Act, 1979	In the Schedule, the words "The Agricultural Credit Corporation".
No. 31 of 1979	Agricultural Credit Act, 1979	The whole Act.
No. 26 of 1980	Ombudsman Act, 1980	In the Second Schedule, the words "The Agricultural Credit Corporation Limited".

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Year and Chapter or Number and Year (1)	Title of Act (2)	Extent of Repeal (3)
No. 24 of 1982	Agricultural Credit Act, 1982	The whole Act.
No. 25 of 1986	Companies (Amendment) Act, 1986	Section 2(2)(e).
No. 6 of 1988	Agricultural Credit Act, 1988	The whole Act.
No. 12 of 1988	Finance Act, 1988	Section 75.
No. 17 of 1989	Building Societies Act, 1989	Section 93(4)(d) and (e).
No. 33 of 1990	Companies Act, 1990	Section 78(4)(a) (iii).
No. 37 of 1990	Unit Trusts Act, 1990	In section 1(1), in paragraph (c) of the definition of "securities", the words "the Agricultural Credit Corporation public limited company,".
No. 6 of 1992	ACC Bank Act, 1992	The whole Act.
No. 11 of 1992	Financial Transactions of Certain Companies and Other Bodies Act, 1992	In section 2(1)(a), the words " , other than ACC Bank plc,". Section 2(3).
No. 8 of 1993	Comptroller and Auditor General (Amendment) Act, 1993	In the Second Schedule, the words "ACC Bank public limited company".
No. 15 of 1994	Criminal Justice Act, 1994	Section 32(1)(h).
No. 26 of 1994	ACC Bank Act, 1994	The whole Act.
No. 9 of 1995	Stock Exchange Act, 1995	In section 3(1), in paragraph (b) of the definition of "statutory functions", the words "the ACC Bank Act, 1992 (Section 4) Regulations, 1992 (S.I. No. 373 of 1992),".
No. 11 of 1995	Investment Intermediaries Act, 1995	In section 2(1), in paragraph (b) of the definition of "statutory functions" the words "the ACC Bank Act, 1992 (Section 4) Regulations, 1992 (S.I. No. 373 of 1992),".
No. 24 of 1995	Consumer Credit Act, 1995	In section 2(1), in the definition of "credit institution", paragraph (e).
No. 8 of 1997	Central Bank Act, 1997	In section 2(1), in paragraph (b) of the definition of "statutory functions", the words "the ACC Bank Act, 1992 (Section 4) Regulations, 1992 (S.I. No. 373 of 1992),".
No. 31 of 1997	Prompt Payment of Accounts Act, 1997	In the Schedule, the words "ACC Bank plc".

Year and Chapter or Number and Year (1)	Title of Act (2)	Extent of Repeal (3)
No. 39 of 1997	Taxes Consolidation Act, 1997	<p>In section 37, in the Table, the words “Securities issued by ACC Bank plc.”.</p> <p>Section 47, other than as respects debentures, debenture stock and certificates of charge issued before the commencement of this repeal.</p> <p>In section 256(1), in the definition of “interest”, the words “but any amount consisting of an excess of the amount received on the redemption of any holding of A.C.C. Bonus Bonds — First Series, issued by ACC Bank plc, over the amount paid for the holding shall not be treated as interest for the purposes of this Chapter”.</p> <p>In section 256(1) in the definition of “relevant deposit taker”, paragraph (d).</p> <p>In section 519 C (1), paragraph (d) of the definition of “qualifying savings institution”.</p> <p>In section 607(1)(d), the words “ACC Bank plc,”, other than as respects debentures, debenture stock, certificates of charge or other forms of security issued before the commencement of this repeal.</p> <p>In section 784A(1)(a), paragraph (d) of the definition of “qualifying fund manager”.</p> <p>In section 838(1)(a) in paragraph (ii) of the definition of “securities”, the words “ACC Bank plc,”, other than as respects securities issued before the commencement of this repeal.</p> <p>In Schedule 13, item No. 33.</p>
No. 52 of 1998	Jurisdiction of Courts and Enforcement of Judgements Act, 1998	Section 11(4)(e).
No. 29 of 1999	ICC Bank Act, 1999	Section 6.
No. 31 of 1999	Stamp Duties Consolidation Act, 1999	<p>In section 103, paragraph (b) of the definition of “appropriate person”.</p> <p>In section 123(1), paragraph (b) of the definition of “bank”.</p>

PART 2

STATUTORY INSTRUMENTS REVOKED

Number and Year (1)	Title of Instrument (2)	Extent of Revocation (3)
No. 141 of 1949	Agricultural Co-operative Societies (Debentures) Regulations, 1949	In the Schedule, Part III, as respects charges being ordered after the commencement of this revocation.
No. 111 of 1964	Superannuation (Designation of Approved Organisations) Regulations, 1964	In the Schedule, the words "The Agricultural Credit Corporation Limited."
No. 117 of 1978	Public Service (Delegation of Ministerial Functions) Order, 1978	In the Schedule, the words "Agricultural Credit Act, 1978 (No. 2 of 1978)".
No. 437 of 1986	European Communities (Life Assurance Accounts, Statements and Valuations) Regulations, 1986	In Regulation 37(1), paragraph (g) in the definition of "approved financial institution". In Regulation 37(1), in the definition of "approved securities", in paragraph (c), the words "The Agricultural Credit Corporation Limited".
No. 59 of 1991	European Communities (Road Passenger Transport) Regulations, 1991	In Regulation 2(1), in the definition of "Bank or other suitably qualified establishment", the words "The Agricultural Credit Corporation p.l.c."
No. 60 of 1991	European Communities (Merchandise Road Transport) Regulations, 1991	In Regulation 2(1), in the definition of "bank or other suitably qualified establishment", the words "the Agricultural Credit Corporation p.l.c.",
No. 201 of 1992	European Communities (Companies: Group Accounts) Regulations, 1992	Regulation 6(2)(e).
No. 395 of 1992	European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992	In Regulation 2(1), in the definition of "supervisory enactments" the words "the ACC Bank Act, 1992 (No. 6 of 1992),".
No. 168 of 1995	European Communities (Deposit Guarantee Schemes) Regulations, 1995	In Regulation 3(1), in the definition of "supervisory enactments", the words "the ACC Bank Act, 1992 (No. 6 of 1992),".
Number and Year (1)	Title of Instrument (2)	Extent of Revocation (3)
No. 32 of 1997	Ethics in Public Office (Prescribed Public Body Designated Directorships and Designated Positions in Public Bodies) Regulations, 1997	In the Schedule, item No. 40.