



Number 32 of 2001

DORMANT ACCOUNTS ACT, 2001

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DORMANT ACCOUNTS ACT, 2001

AN ACT TO PROVIDE FOR THE TRANSFER OF MONEYS FROM DORMANT ACCOUNTS AND THE INTESTATE ESTATES FUND DEPOSIT ACCOUNT TO A FUND TO BE KNOWN AS THE DORMANT ACCOUNTS FUND, TO CONFER FUNCTIONS ON THE NATIONAL TREASURY MANAGEMENT AGENCY IN RELATION TO THE CONTROL AND MANAGEMENT OF THE FUND, TO PROVIDE FOR THE DISBURSEMENT OF MONEYS (INCLUDING THE REPAYMENT OF MONEYS TO PERSONS ENTITLED TO THEM) FROM THE FUND, TO ESTABLISH A BODY TO BE KNOWN AS THE DORMANT ACCOUNTS FUND DISBURSEMENTS BOARD AND TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE APPOINTMENT OF INSPECTORS, TO AMEND THE STATE PROPERTY ACT, 1954, AND TO PROVIDE FOR RELATED MATTERS. [14th July, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Dormant Accounts Act, 2001. Short title and commencement.

(2) 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.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“account” includes—

- (a) a deposit account, share account or current account, by whatever name called, that is personal, corporate, charitable, resident or non-resident,
- (b) a deposit receipt,
- (c) a petty balances account,
- (d) a savings certificate,

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- (e) a savings bond,
- (f) an amount payable to a person under an instalment savings scheme,
- (g) a fixed deposit, and
- (h) an account prescribed under *section 9*;

“account holder” means—

- (a) a person who holds an account,
- (b) a person who, in respect of an account, is authorised, in writing, to act as the agent of the person who holds the account,
- (c) a person who is authorised under a power of attorney to manage and control an account,
- (d) where a person who holds an account is deceased, the heirs, executors, administrators and assigns of that person, or
- (e) a class of person prescribed under *section 9*,

and “holder” shall be construed accordingly;

“Agency” means the National Treasury Management Agency;

“Board” means the Dormant Accounts Fund Disbursements Board established by *section 30*;

“dormancy period” means—

- (a) a period of not less than 15 years ending on—
 - (i) 31 March 2002, and
 - (ii) 30 September in each subsequent year commencing on 30 September 2003,

or

- (b) any other period prescribed under *section 9*;

“dormant account” shall be construed in accordance with *section 7*;

“establishment day” means the day appointed by the Minister under *section 3* to be the establishment day for the purposes of this Act;

“financial year” means—

- (a) in the case of the Agency and the Board, the period of 12 months ending on 31 December in each year, and
- (b) in the case of an institution, the financial year of the institution concerned;

“fixed deposit” means a deposit of moneys with an institution for a period and at a rate of interest fixed by the institution;

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“Fund” means the Dormant Accounts Fund established by *section* Pr.1 S.2 17;

“health board” means—

- (a) a health board established under the Health Act, 1970, and
- (b) the Eastern Regional Health Authority, an Area Health Board and the Health Boards Executive, established under the Health (Eastern Regional Health Authority) Act, 1999;

“instalment savings scheme” means a scheme to which section 53 of the Finance Act, 1970, applies;

“institution” means an institution referred to in *section* 8;

“investment and disbursements account” means the investment and disbursements account of the Fund;

“local authority” means a local authority for the purposes of the Local Government Act, 1941;

“Minister” means the Minister for Social, Community and Family Affairs;

“petty balances account” means an account, by whatever name called, into which an institution transfers moneys from accounts which, in accordance with its practice and procedure—

- (a) contain an amount below the minimum amount required by the institution for the purpose of maintaining separate accounts, and
- (b) are deemed by the institution to be inactive;

“power of attorney” means an instrument signed by or by direction of a person (the donor), or a provision contained in such an instrument, giving the donee the power to act on behalf of the donor in accordance with the terms of the instrument;

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

“register” means the register of dormant accounts established under *section* 14;

“reserve account” means the reserve account of the Fund;

“savings bond” means a savings bond issued under section 54 of the Finance Act, 1970;

“savings certificate” means a certificate issued by the Minister for Finance under section 30 of the Finance Act, 1940, in accordance with rules made for that purpose;

“transaction”, in relation to an account, means—

- (a) in the case of a savings bond, savings certificate or instalment savings scheme, encashment or partial encashment by the account holder,

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(b) in the case of a deposit receipt or fixed deposit, encashment or partial encashment by the account holder, and

(c) in any other case, the debiting from or crediting to the account, of an amount, by the account holder.

(2) In the case of an account in the form of a fixed deposit, savings bond, savings certificate or instalment savings scheme, the dormancy period commences on the expiration of the initial term specified in respect of that account.

(3) In this Act—

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

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

(c) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act, and

(d) a reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

Establishment day.

3.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Regulations and orders.

4.—(1) The Minister may—

(a) by regulations provide, subject to this Act, for any matter referred to in this Act as prescribed or to be prescribed, and

(b) in addition to any other power conferred on him or her to make regulations, make regulations generally for the purposes of, and for the purpose of giving full effect to, this Act.

(2) Regulations under this Act may—

(a) contain any incidental, supplementary and consequential provisions that appear to the Minister to be necessary or expedient for the purposes of the regulations, or

(b) apply either generally or to a specified class or classes of account, institution or person (including a class or classes of account, institution or person specified in regulations under *section 9*) or to any other matter that may be considered by the Minister to be appropriate and may include different provisions in relation to different classes of account, institution or person.

(3) Where the Minister proposes to make regulations under *section 9* or *11(7)*, he or she shall cause a draft of the regulations to be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each House. Pr.1 S.4

(4) Every regulation or order under this Act (other than a regulation referred to in *subsection (3)* or an order made under *section 1(2)* or *3* 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 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 under the regulation or order.

5.—(1) Except where otherwise provided for in this Act, the expenses incurred by the Minister in the administration of this Act shall, to the extent that may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

(2) The Minister may from time to time, during the period of 2 years from the establishment day, with the consent of the Minister for Finance, advance to the Fund out of moneys provided by the Oireachtas, on the terms and conditions that the Minister, with the agreement of the Minister for Finance, thinks fit, the sum or sums that the Minister, after consultation with the Board, may determine for the purpose of defraying the costs and expenses incurred by the Board in performing its functions under this Act.

6.—(1) Subject to *subsection (2)*, a person guilty of an offence under this Act shall be liable— Penalties and proceedings.

(a) on summary conviction, to a fine not exceeding €1,900 or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 5 years, or both.

(2) A person guilty of an offence under *section 40(2)* shall be liable on summary conviction to a fine not exceeding €1,900.

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

(4) Notwithstanding *section 10(4)* of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 2 years from the date on which the offence was committed or, if later, 2 years from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings comes to that person's knowledge.

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(5) Summary proceedings in respect of an offence under this Act may be brought and prosecuted by the Minister.

(6) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Minister the costs and expenses, measured by the court, incurred by the Minister in relation to the prosecution of the offence.

PART 2

DORMANT ACCOUNTS

CHAPTER 1

Application of Act

Dormant accounts. **7.**—An account shall be deemed to be a dormant account where, during the dormancy period, no transaction on the account has been effected by the account holder.

Application of Act. **8.**—(1) Subject to *subsection (2)*, this Act applies to dormant accounts held at an institution specified in *Part 1* of the *Schedule*.

(2) This Act does not apply to an account specified in *Part 2* of the *Schedule*.

Extension of application of Act. **9.**—(1) The Minister, having regard to the purposes specified in *subsection (3)*, following consultation with the Central Bank and subject to the consent of the Minister for Finance, may make regulations providing for the application of this Act and instruments made under this Act, with and subject to any modifications that may be specified in the regulations, to accounts (including accounts other than those specified in *section 2(1)*) that are held by any class or classes of person and at any class or classes of institution specified in the regulations.

(2) Without prejudice to the generality of *subsection (1)*, the modifications, if any, may relate to any of the following matters:

- (a) the dormancy period;
- (b) the notification procedure set out in *Chapter 2*;
- (c) the transaction, as defined in *section 2(1)*, required to be effected in relation to an account for the purposes of this Act;
- (d) the transfer of moneys to the Fund under *section 12*;
- (e) the keeping of a register under *section 14* and the particulars required to be entered therein;
- (f) the disclosure of information for statistical purposes under *section 15*;
- (g) the repayment of moneys under *Chapter 5*;
- (h) any other matters that may appear to the Minister to be necessary for carrying the regulations into effect.

(3) The Minister may make regulations under *subsection (1)* for the following purposes: Pt.2 S.9

- (a) consumer protection;
- (b) the proper and orderly regulation of the financial services industry;
- (c) to facilitate the accessing or identification by persons of accounts or moneys to which they are entitled;
- (d) to reduce the administrative and financial burden on persons or institutions of maintaining dormant accounts.

CHAPTER 2

Notification Procedure

10.—(1) Subject to *section 11*, except where a dormant account holder has been previously notified under this section in respect of the account concerned, each holder of a dormant account shall be notified, in writing, by the institution concerned of the following: Notification procedure.

- (a) the name and current address of the institution and any information regarding a change of name since the opening of the account concerned;
- (b) that a dormant account is held at the institution to which the holder appears to be entitled;
- (c) that if a transaction is not effected on the account on or before 31 March next following, the moneys in the account will be transferred to the Fund without further notice to the account holder;
- (d) that the account holder is entitled, subject to this Act, to claim repayment of the moneys in the account from the institution concerned;
- (e) any other matters that may be prescribed but which shall, without prejudice to the generality hereof, notify the account holder that his account can be reclaimed at all times subject to the provisions of this Act.

(2) The notification referred to in *subsection (1)* shall be sent by ordinary post to the last known address of the account holder—

- (a) as soon as practicable after 31 March 2002, and
- (b) in each subsequent year, as soon as practicable after 30 September.

(3) An institution that fails to notify an account holder under this section shall be guilty of an offence.

11.—(1) Where a dormant account is held at an institution and— Publication of notice.

- (a) the amount in the account is less than €100 or its equivalent in any other currency (or any other amount that is prescribed under *subsection (7)*),
- (b) the institution has been instructed by the account holder not to correspond with or contact the account holder, or

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- (c) the institution has taken all reasonable steps to notify the account holder in writing in relation to the account and fails to do so,

section 10 does not apply and the institution shall publish or cause to have published a notice in 2 or more daily newspapers circulating in the State and in the *Iris Oifigiúil*.

(2) The notice shall be in the prescribed form or in a form to the like effect and shall contain the following information:

- (a) subject to *subsection (3)*, the name of the institution and the current address of its head office and any information regarding a change of name;
 - (b) that the institution holds dormant accounts;
 - (c) that if a transaction is not effected on a dormant account on or before 31 March next following, the moneys in the account will be transferred to the Fund without further notice to the account holder;
 - (d) that any interested persons should contact the relevant institution to establish if they hold such an account;
 - (e) that account holders are entitled, subject to this Act, to claim repayment of the moneys in dormant accounts from the institution concerned;
 - (f) any additional information that may be prescribed.
- (3) (a) An institution which publishes, or causes to have published on its behalf, a notice under this section shall, on request, make available free of charge—
- (i) details of the current address of its head office and any information regarding a change of name, and
 - (ii) subject to *paragraph (b)*, any other relevant information specified in the request.
- (b) Where the information referred to in *paragraph (a)(ii)* is otherwise made available to persons subject to a lawful charge, that information may be made available under this subsection subject to that charge.

(4) The notice shall be published—

- (a) in the case of the first notice, on 30 April 2002, and
- (b) in any other case, in each subsequent year, on the first weekday in October in that year.

(5) Copies of a notice published under this section shall be—

- (a) permanently displayed in a prominent position at each premises in which the institution carries on business that is open to the public, and
- (b) published in a prominent position—
 - (i) in all brochures and publicity material, in relation to dormant accounts, issued by the institution, and
 - (ii) in any relevant code of conduct of the institution.

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(6) An institution that fails to comply with this section shall be guilty of an offence. Pr.2 S.11

(7) The Minister may, by order, amend at any time the amount specified in *subsection (1)(a)* if the Minister—

- (a) considers it appropriate to do so having regard to all the circumstances, and
- (b) is satisfied that by doing so members of the public will not be prejudiced.

CHAPTER 3

Transfer of Moneys in Dormant Accounts to Dormant Accounts Fund

12.—(1) Subject to *subsections (2) and (3)*, if a transaction is not effected on a dormant account on or before the date specified in *section 10(1)(c)* or *11(2)(c)*, as the case may be, the institution at which the account is held shall, not later than 30 April next following, transfer to the Fund the moneys in the dormant account and the first such transfer shall take place not later than 30 April 2003. Transfer of moneys to Fund.

(2) Where dormant accounts to which *subsection (1)* applies are held at a building society specified in *paragraph (b)* of *Part 1* of the *Schedule*, the amount transferred to the Fund shall be an amount equivalent to the total value of the building society's dormant accounts.

(3) (a) Where dormant accounts to which *subsection (1)* applies are held at An Post, it shall, not later than the tenth working day after 31 March in each year, furnish a statement, in writing, to the Minister for Finance specifying—

- (i) the total value of its dormant accounts, and
- (ii) the total number of dormant accounts,

and the first statement shall be furnished not later than the tenth working day after 31 March 2003.

(b) Where the Minister for Finance receives a statement under *paragraph (a)*, he or she shall cause to be transferred to the Fund, not later than 30 April next following the receipt of the statement—

- (i) in the case of savings bonds, savings certificates and instalment savings schemes, from the Central Fund or the growing produce thereof, and
- (ii) in all other cases, from the Post Office Savings Bank Fund,

an amount equivalent to the total value of the dormant accounts specified in the statement.

(c) The Minister for Finance may by order—

- (i) delegate to the Agency his or her functions under this subsection, and

(ii) amend or revoke an order under this paragraph including an order under this subparagraph.

(d) Where the functions conferred on the Minister for Finance under this subsection are delegated to the Agency under *paragraph (c), subsection (4)* does not apply to a transfer of moneys to the Fund under this subsection.

(4) An institution that transfers moneys, or arranges to have moneys transferred on its behalf, to the Fund under this section, shall furnish to the Agency a statement, in writing, specifying the total amount of moneys so transferred and the total number of the accounts concerned.

(5) (a) Subject to *paragraph (b)*, the moneys transferred from a dormant account to the Fund under this section shall be the ledger balance on the date of transfer.

(b) *Paragraph (a)* shall not apply to—

(i) a deposit receipt, in which case the amount transferred to the Fund under *subsection (1)* shall be the amount of the deposit receipt only but excluding any lawful charges that may be withheld by the institution concerned, or

(ii) a petty balances account, in which case the amount transferred to the Fund under *subsection (1)* shall be the amount that the institution estimates to be equivalent to the total value of the accounts from which moneys have been transferred to the petty balances account by that institution and which are dormant accounts.

(6) An institution that does not hold any dormant accounts to which *subsection (1)* applies, shall make a report to that effect to the Agency, in writing, not later than 30 April in each year and the first report shall be made not later than 30 April 2003.

(7) (a) An institution that—

(i) fails to transfer moneys, or fails to have moneys transferred on its behalf, to the Fund under this section, or

(ii) fails to make a report to the Agency under *subsection (6)*,

shall be guilty of an offence.

(b) *Paragraph (a)(i)* shall not apply to An Post.

(8) (a) Moneys which an institution fails to transfer, or fails to have transferred on its behalf, to the Fund under this section, together with any accrued interest thereon, shall be a simple contract debt due and owing by the institution to the Fund and may be recovered by the Minister in any court of competent jurisdiction from the institution.

(b) Moneys recovered under *paragraph (a)* shall be paid into and form part of the Fund.

(9) In this section—

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“ledger balance” means the moneys in an account on the date of transfer of those moneys to the Fund under this section together with any accrued interest thereon but excluding any charges that may lawfully be withheld by the institution concerned;

“working day” means a day that is not a Saturday, Sunday or public holiday (within the meaning of the Organisation of Working Time Act, 1997).

13.—(1) Where—

Non-application of
section 12.

- (a) an institution’s licence or authorisation is revoked, withdrawn or suspended,
- (b) the Central Bank gives a direction to an institution under—
 - (i) section 21 (as amended by section 38 of the Central Bank Act, 1989) of the Central Bank Act, 1971,
 - (ii) section 40 of the Building Societies Act, 1989,
 - (iii) section 26 of the Trustee Savings Banks Act, 1989, or
 - (iv) Regulation 27 or 29 of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992),
- (c) an examiner or administrator is appointed by the court to an institution, or
- (d) an institution is—
 - (i) in receivership,
 - (ii) in liquidation,
 - (iii) being wound up, or
 - (iv) otherwise being dissolved,

no moneys shall be transferred after the relevant date by or on behalf of the institution to the Fund under *section 12*.

(2) *Subsection (1)* ceases to apply where, in respect of an institution—

- (a) its licence or authorisation is restored or the suspension is terminated,
- (b) a direction referred to in *subsection (1)(b)* is revoked, set aside, terminated or otherwise ceases to have effect, or
- (c) the appointment of an examiner or administrator has terminated.

(3) In this section “relevant date” means—

- (a) the date of the revocation, withdrawal or suspension of the licence or authorisation, as the case may be, or the date on which the direction is given,

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- (b) the date of appointment of the examiner or administrator,
- (c) the date of appointment of the receiver,
- (d) where the institution is being wound up—
 - (i) in the case of a voluntary winding up, the date of the passing of the resolution for voluntary winding up,
 - (ii) in the case where, before the presentation of a petition for the winding up by the court, a resolution has been passed for voluntary winding up, the date of the passing of the resolution, and
 - (iii) in any other case, the date of the presentation of a petition for the winding up by the court,
- and
- (e) where the institution is otherwise being dissolved, the date of the dissolution.

(4) An institution that fails to comply with *subsection (1)* shall be guilty of an offence.

Register of
Dormant Accounts.

14.—(1) Each institution shall keep a register of dormant accounts.

(2) Subject to *subsection (3)*, an institution shall enter in the register the following particulars in respect of dormant accounts from which moneys are transferred to the Fund under *section 12*:

- (a) the name and address of the account holder;
- (b) the account number, if any and ascertainable;
- (c) if a notification was sent to the account holder under *section 10*, the date on which and, if different from the address referred to in *paragraph (a)*, the address to which the notification was sent;
- (d) the date on which the account was deemed to be a dormant account;
- (e) the date of the transfer to the Fund and the amount transferred;
- (f) if the moneys so transferred were repaid to the account holder under *section 19*, the date on which the moneys were repaid and the amount repaid;
- (g) any other matters that may be prescribed.

(3) Where moneys are transferred to the Fund under *section 12* from a petty balances account, *subsection (2)* does not apply and the following particulars only shall be entered in the register:

- (a) the petty balances account number;
- (b) the total amount so transferred;

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(c) the total amount repaid to account holders from the petty Pr.2 S.14 balances account under *section 19*.

(4) The register may be kept in any form subject to its being capable of being converted into a legible form and being used to make a legible copy or reproduction of any entry in the register.

(5) (a) Subject to *paragraph (b)*, the register shall not be open to public inspection.

(b) Nothing in *paragraph (a)* shall be construed as restricting—

(i) the application of the Data Protection Act, 1988, or

(ii) the right of a person, who proves to the satisfaction of an institution that he or she is, or may be, an account holder, to inspect the register insofar as that account is concerned.

(6) An institution that fails to—

(a) keep a register, or

(b) enter in the register the particulars specified in *subsection (2)* or *(3)*,

shall be guilty of an offence.

15.—(1) The Minister, following consultation with the Central Bank, in the interests of consumer protection and the proper and orderly regulation of the financial services industry, may, for statistical purposes only, make regulations providing for the disclosure of the information specified in *subsection (2)*—

Disclosure of information for statistical purposes.

(a) to the persons and subject to the conditions (including the payment of charges by the person seeking the information concerned) and restrictions that the Minister may determine, and

(b) in a form that the information cannot be directly or indirectly related to an identifiable person.

(2) The information referred to in *subsection (1)* may include—

(a) prescribed information from the register,

(b) details of the classes of dormant accounts, and

(c) the number of dormant accounts in each class.

16.—(1) The transfer of moneys to the Fund under *section 12(2)* by a building society specified in *paragraph (b)* of *Part 1* of the *Schedule* is without prejudice to the rights of share account holders as provided for by the Building Societies Act, 1989.

Rights of share account holders.

(2) Without prejudice to the generality of *subsection (1)*, the rights referred to in that subsection include the rights provided for by sections 16, 50, 69, 74 and 101 of the Building Societies Act, 1989.

Dormant Accounts Fund

Dormant Accounts Fund.

17.—(1) The Agency shall establish a fund to be known as the Dormant Accounts Fund.

(2) The Agency shall manage and control the Fund in accordance with this Act and shall have all the powers (including the power to charge fees, payable from the Fund, in relation to the management and control of the Fund) that are necessary for or incidental to the performance of its functions.

(3) The Fund shall consist of a reserve account and an investment and disbursements account.

(4) The Agency shall pay into the reserve account, from time to time, the amount that the Agency determines, with the approval of the Minister given with the consent of the Minister for Finance, for the purposes of—

(a) defraying—

(i) the fees, costs and expenses incurred by the Agency and the Board in the performance of its functions under this Act, and

(ii) the remuneration, fees and allowances for expenses of the inspectors who may be authorised by the Minister under *section 22*,

and

(b) making repayments under *section 19* or *29*.

(5) All other moneys standing to the credit of the Fund shall be paid into the investment and disbursements account.

(6) Whenever the moneys in the reserve account are insufficient to meet the liabilities of the Fund specified in *subsection (4)*, there shall be paid into that account from the investment and disbursements account the moneys that are necessary to meet those liabilities.

(7) (a) Subject to *paragraph (b)*, whenever the moneys in the investment and disbursements account are insufficient to meet the deficiency of the reserve account, there shall be paid into the reserve account out of the Central Fund or the growing produce thereof, amounts not exceeding the amount of the deficiency.

(b) Where moneys are paid into the reserve account under *paragraph (a)*, the Agency shall, as soon as practicable, repay the moneys to the Central Fund from surplus moneys remaining in the Fund after appropriate provision has been made in relation to—

(i) the liabilities of the Fund specified in *subsection (4)*, and

(ii) any prospective or contingent liabilities of the Fund for which, in the opinion of the Agency, provision should be made out of those moneys.

(8) The Public Offices Fees Act, 1879, does not apply to any fees charged under this section. Pt.2 S.17

18.—(1) Subject to *subsection (2)*, the Agency shall, as soon as practicable after 30 April in each year, prepare an investment plan for the Fund, having regard to the plan prepared by the Board under *section 42* for the disbursement of moneys from the Fund, and the first investment plan shall be prepared not later than 30 June 2003. Investment of Fund.

(2) The Minister, in consultation with the Minister for Finance, may issue directions or guidelines to the Agency concerning the preparation of the investment plan, and the Agency shall comply with those directions and prepare the investment plan in accordance with those guidelines.

(3) Moneys standing to the credit of the Fund that are not, for the time being, required for the purpose of meeting the liabilities of the Fund specified in *section 17(4)* shall be invested by the Agency in the currency of the State—

(a) in the securities (other than shares in a company) that the Agency considers appropriate, or

(b) by way of deposit of moneys with any credit institution, or the investment of moneys in short term financial products, such as certificates of deposit or commercial paper, issued by any person,

and may be so invested within the State or otherwise.

(4) Any income, capital or other benefit received in respect of moneys in the Fund held or invested by the Agency shall be paid into the Fund, and held or invested for the benefit of the Fund in accordance with *subsection (3)*.

(5) Any interest received by the Agency in respect of moneys invested by way of deposit with a credit institution under *subsection (3)(b)* shall, for the purposes of Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997, be deemed to be beneficially owned by the Agency.

(6) In this section “credit institution” has the same meaning as it has in the European Communities (Consolidated Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 396 of 1992).

CHAPTER 5

Repayment of Moneys Transferred to Fund

19.—(1) Where an institution has transferred moneys from a dormant account to the Fund under *section 12*, a person (in this section referred to as the “claimant”) may claim, from the institution, repayment of moneys so transferred. Claims for repayment.

(2) A claim under *subsection (1)* shall be—

(a) in writing,

(b) signed by the claimant, and

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(c) accompanied by the documents and information that the institution may require.

(3) Where a claimant proves to the satisfaction of the institution that he or she is the holder of the relevant account, the institution shall, within 28 days from the date of the receipt of the claim, notify the Agency, in writing, of—

(a) the amount of the moneys transferred to the Fund under *section 12*, and

(b) the amount of any accrued interest on those moneys for the period commencing on the day on which the moneys were transferred to the Fund under *section 12* and ending on the twenty-first day after the date of notification to the Agency under this subsection,

and the Agency shall pay to the institution, within 21 days after the date of the notification, the total of the amounts specified in *paragraphs (a) and (b)*.

(4) Within 7 days of the receipt of payment under *subsection (3)*, an institution shall—

(a) subject to the deduction of any charges that may lawfully be withheld by the institution, pay to the claimant the total of—

(i) the amount of moneys referred to in *subsection (3)(a)*,

(ii) the amount of any accrued interest referred to in *subsection (3)(b)*, and

(iii) any further interest that accrues in respect of the amounts referred to in *subsections (3)(a) and (b)* for the period commencing on the twenty-second day after the date of the notification to the Agency under *subsection (3)* and ending on the date of payment to the claimant;

and

(b) provide to the claimant, in writing, a statement of account.

(5) The rate of interest for the purposes of this section shall be determined in accordance with the contractual arrangements between the account holder and the institution at which the account concerned is held.

(6) The accrued interest referred to in *subsection (4)(a)(ii)* shall, for the purposes of Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997, be deemed to be a payment of an amount of relevant interest paid by the institution on the date of the payment to the claimant under that subsection.

(7) A person who fraudulently makes a claim for repayment under *subsection (1)* shall be guilty of an offence.

(8) (a) Where an institution has been wound up, the liquidator appointed to the institution shall, in addition to his or her duties and obligations in respect of the winding up and

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following dissolution of the institution, submit the register to the Central Bank. Pr.2 S.19

- (b) Where a register is submitted to the Central Bank under *paragraph (a)*, the Central Bank shall—
- (i) process, in accordance with this section, claims for repayment of moneys transferred by the institution to the Fund under *section 12*, and
 - (ii) enter in the register the particulars specified in *paragraphs (f) and (g) of section 14(2)*.

PART 3

COMPLIANCE WITH ACT

CHAPTER 1

Certificate of Compliance

20.—(1) Each institution shall furnish a certificate of compliance to the Minister, not later than one month after the end of each financial year, in the form and manner that the Minister may prescribe, stating, if this is the case, that the institution has complied with this Act in respect of the following— Certificate of compliance.

- (a) the publication of a notice under *section 11*,
- (b) in the case of an institution that holds dormant accounts to which *section 12(1)* applies, the transfer of moneys from those accounts to the Fund under that section,
- (c) in the case of an institution which does not hold any such dormant accounts, the filing of a report to that effect with the Agency under *section 12(6)*,
- (d) the keeping of a register in accordance with *section 14*, and
- (e) the processing of claims for repayment under *section 19*.

(2) The certificate shall be signed by a duly authorised officer and shall include any qualifications, amplifications or explanations that the officer considers appropriate.

(3) Where an institution fails to—

- (a) appoint a duly authorised officer, or
- (b) furnish a certificate of compliance under this section,

it shall be guilty of an offence.

(4) In this section “duly authorised officer” means authorised, in writing, by the institution concerned or by some person authorised in that behalf by that institution.

Inspections

Interpretation
(Chapter 2).

21.—In this Chapter—

“computer” includes a personal organiser or any other electronic means of information storage and retrieval;

“inspector” means a person authorised by the Minister under *section 22* to exercise the powers conferred on an inspector by this Chapter;

“record” means any book, document (including accounts) or any other written or printed material in any form including—

- (a) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form and that is capable of being reproduced in a legible form, and
- (b) all the electronic or other automatic means, if any, by which any such material or information is capable of being so reproduced and to which an institution, being inspected for the purposes of this Chapter, has access.

Authorisation of
inspectors.

22.—(1) The Minister may authorise one or more persons to be inspectors for the purposes of—

- (a) ensuring compliance by the institutions with this Act,
- (b) examining claims for repayment under *section 19*,
- (c) ascertaining whether institutions have established systems, procedures and practices that are adequate to secure an effective check on the identification, notification, transfer, recording and repayment of moneys in dormant accounts, and
- (d) determining whether those systems, procedures and practices have been employed and applied in an adequate manner in relation to moneys in dormant accounts.

(2) An authorisation under this section shall be in writing and shall be subject to any terms and conditions (including terms and conditions relating to the remuneration, fees and allowances for expenses) that may be determined by the Minister, with the consent of the Minister for Finance, and that are specified in the authorisation.

(3) The remuneration, fees and allowances for expenses referred to in *subsection (2)* shall be payable out of the Fund.

(4) The authorisation of an inspector under this section ceases when the Minister revokes the authorisation.

(5) Subject to *section 24*, the Minister may give directions in relation to the form, manner and content of the report to be prepared by an inspector.

23.—(1) An inspector may, for the purposes specified in *section 22*, on production of his or her authorisation—

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Power to inspect records.

(a) at all reasonable times and on reasonable notice inspect and take copies of or extracts from (including, in the case of information in a non-legible form, a copy of or extract from that information in a permanent legible form), and make any enquiries that the inspector considers necessary in relation to the following records kept by an institution—

(i) accounts held by the institution,

(ii) records of the transfer of moneys to the Fund under *section 12*,

(iii) the register,

(iv) claims for repayment under *section 19*,

(v) any other records relating to the matters specified in *subparagraphs (i) to (iv)*, and

(vi) any other records relating to dormant accounts,

and, for those purposes, enter any premises on which the inspector reasonably believes that those records are kept and search and inspect the premises,

(b) secure for later inspection any premises or any part of a premises on which those records are kept or there are reasonable grounds for believing that those records are kept,

(c) where records that are stored in electronic form or are not in the English or Irish language, require the institution concerned or a person employed by that institution to produce in a legible form a copy of those records in the English or Irish language,

(d) require a person by whom or on whose behalf a computer is or has been used to produce or store records or any person having charge of, or otherwise concerned with the operation of, the computer to afford the inspector all reasonable assistance in relation thereto, and

(e) remove and retain those records for such period as may be reasonable for further inspection or until the conclusion of any legal proceedings, subject to a warrant being issued for that purpose by a judge of the District Court.

(2) A person who has in his or her power, possession or procurement any records referred to in *subsection (1)* shall—

(a) produce them at the request of the inspector and permit the inspector to inspect and take copies of or extracts from them,

(b) at the request of the inspector, give the inspector any information that the inspector may reasonably require in relation to any entries in those records and provide an explanation of any apparent omissions from them or any omission of a record required to be produced, and

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(c) give any other assistance and other information to the inspector that is reasonable in the circumstances.

(3) The duty to produce or provide any record or information extends to an examiner, administrator, liquidator, receiver, official assignee or any person who is or has been an officer or employee or agent of an institution or who appears to the Minister or the inspector to have the information or record in his or her possession or under his or her control.

(4) Where a person from whom production of a record is required claims a lien thereon, the production of it shall be without prejudice to the lien.

(5) An inspector shall not, except with the consent of the occupier, enter a dwelling unless he or she has obtained a warrant issued by a judge of the District Court under *subsection (7)* authorising the entry.

(6) An inspector, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an inspector by this Part.

(7) If a judge of the District Court is satisfied on the sworn information of an inspector that there are reasonable grounds for suspecting that there is information required by an inspector under this section held on any premises or any part of any premises, the judge may issue a warrant authorising an inspector, accompanied by other inspectors or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter the premises, if need be by reasonable force, and exercise all or any of the powers conferred on an inspector under this section.

(8) A person who—

(a) obstructs an inspector in the exercise of a power under this Chapter,

(b) gives to an inspector information that the person knows is false or misleading, or

(c) without reasonable excuse, fails to comply with a request or requirement made by an inspector under this Chapter,

shall be guilty of an offence.

(9) For the purposes of carrying out inspections under this Chapter the inspector shall have access to—

(a) all records kept by the Agency in relation to the transfer of moneys to, and the repayment of moneys from, the Fund, and

(b) the certificates of compliance furnished to the Minister under *section 20*.

Inspector's report.

24.—(1) Where, following an inspection under this Part, the inspector is of the opinion that—

(a) there is reason to believe that the institution concerned is in breach of any provision of this Act, or

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- (b) there is a material defect in the systems, procedures and practices referred to in *section 22(1)(c)*, Pt.3 S.24

the inspector shall prepare a report, in writing, and submit a copy of the report to the Minister.

(2) Subject to *subsection (3)*, account holders shall not be referred to in a report under this section (otherwise than for the purposes of *subsection (3)*) by name or in any manner by which they could be identified as account holders.

(3) An inspector who, in the course of an inspection, obtains *prima facie* evidence of—

- (a) a possible underpayment or non-transfer of moneys from a dormant account to the Fund under *section 12*, or

- (b) a fraudulent claim for repayment under *section 19*,

shall furnish to the Minister particulars of the evidence and of the accounts and account holders concerned.

(4) An inspector shall provide to the Minister any information and assistance that may reasonably be required by the Minister in respect of any matters relating to an inspection carried out under this Chapter or for the purpose of clarifying any matter in the inspector's report.

25.—Utterances made in good faith by an inspector for the purpose of performing the functions of an inspector under this Chapter are absolutely privileged and such utterances and reports in any form prepared by an inspector for that purpose are absolutely privileged wherever and however published. Privilege of inspector.

26.—(1) Subject to *section 24(2)*, any prohibition or restriction imposed by law (including any contract) in relation to the disclosure of information (including records in any form) does not apply in relation to— Disclosure of information to inspector.

- (a) the disclosure of information in good faith to, or access to information by, an inspector for the purposes of his or her functions under this Part, or

- (b) any information that is contained in an inspector's report under *section 24* and is information that in the inspector's opinion ought, in the public interest, to be so contained and no liability of any kind shall attach to the person or institution (including their directors, officers or employees) making the disclosure.

(2) Nothing in this section or *section 23* compels the disclosure by any person of any information that the person would, in the opinion of the court, be entitled to refuse to produce on the grounds of legal professional privilege or authorises the taking possession of any document containing such information that is in the person's possession.

27.—(1) Without prejudice to any prosecution that might be brought under this Act, where an inspector's report under *section 24* discloses particulars of— Failure to comply with Act.

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- (a) non-compliance by an institution with any provision of this Act, or
- (b) a material defect referred to in *section 24(1)(b)*,

the Minister may, as soon as practicable after receiving the report, give, by notice in writing, directions to the institution aimed at ensuring compliance or rectification of the material defect, as the case may be, subject to any terms and conditions that the Minister may specify in the directions.

- (2) (a) An institution that fails to comply with a direction given under *subsection (1)* shall be guilty of an offence.
- (b) It shall be a defence to a prosecution under *paragraph (a)* for the institution concerned to prove that a direction given under *subsection (1)* was unreasonable having regard to—
 - (i) the scope and terms of the provision of this Act that, in the opinion of the inspector, the institution failed to comply with, or
 - (ii) the nature and consequences of the alleged material defect.

PART 4

INTESTATE ESTATES FUND DEPOSIT ACCOUNT

Amendment of
State Property Act,
1954.

28.—The State Property Act, 1954, is amended in section 36 by the insertion of the following after subsection (1)(a):

“(aa) transferred to the Dormant Accounts Fund established under the *Dormant Accounts Act, 2001*, or”,

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

TABLE

36.—(1) The Minister may from time to time direct that certain specified moneys or securities, standing to the credit of the account under his control and known as the Intestate Estates Fund Deposit Account, be—

- (a) paid into, or transferred to, the Savings Certificates Reserve Fund and placed to the credit of the Principal Reserve Account, or
- (aa) transferred to the Dormant Accounts Fund established under the *Dormant Accounts Act, 2001*, or
- (b) paid into or disposed of for the benefit of the Exchequer in such manner as he may direct.

(2) Nothing in subsection (1) of this section shall preclude the Minister from making out of the Intestate Estates Fund Deposit Account—

- (a) payments in connection with the administration of the estates of deceased persons (including payments in respect of funeral expenses, debts, expenses of administration and bounties), and
- (b) such other payments as he thinks proper.

Repayment of
moneys transferred
to Fund.

29.—Whenever the moneys standing to the credit of the account under the control of the Minister for Finance and known as the Intestate Estates Fund Deposit Account are insufficient to meet payments to be made under section 36(2) of the State Property Act, 1954—

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- (a) the Minister for Finance may apply, in writing, to the Agency for repayment to that Account, out of moneys transferred to the Fund under section 36(1)(aa) (inserted by *section 28*) of that Act, of the moneys that are necessary to meet those payments, and Pt.4 S.29
- (b) the Agency shall pay those moneys into the Intestate Estates Fund Deposit Account within the period and in the manner that the Minister for Finance may determine.

PART 5

DORMANT ACCOUNTS FUND DISBURSEMENTS BOARD

30.—There shall stand established on the establishment day a body to be known as the Dormant Accounts Fund Disbursements Board, to perform the functions conferred on it by or under this Act. Establishment of Board.

31.—(1) The functions of the Board are— Functions of Board.

- (a) to prepare, in accordance with *section 42*, a plan for the disbursement of moneys from the Fund and to direct the Agency to make disbursements, and
- (b) to report to the Minister under *section 45*.

(2) The Board has all the powers that are necessary for or incidental to the performance of its functions under this Act.

(3) The Board shall, subject to this Act, be independent in the performance of its functions.

32.—(1) The Board shall consist of a chairperson and 8 ordinary members. Membership of Board and terms of office of members.

(2) The chairperson and the ordinary members shall be appointed by the Minister and shall include—

- (a) an officer of the Minister not below the rank of principal officer,
- (b) a person who, in the Minister's opinion, represents the interests of the financial services industry,
- (c) 3 persons who—
- (i) in the Minister's opinion, have knowledge of, or experience in relation to, the purposes specified in *section 42* for which disbursements may be made, and
- (ii) are appointed by the Minister after consultation with the organisations that the Minister considers to be representative of the purposes so specified,

and

- (d) 3 persons who, in the Minister's opinion, have knowledge of, or experience relating to any other matters that appear to the Minister to be relevant to the Board's functions.

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(3) The Minister shall fix the term of office of each member of the Board and, subject to this section, membership shall be on the terms that the Minister may determine.

(4) Four of the ordinary members of the Board appointed under *subsection (2)* shall hold office for a term not exceeding 3 years, and the remaining ordinary members shall hold office for a term not exceeding 5 years, as determined by the Minister.

(5) (a) A member of the Board whose term of office expires or is about to expire with the passage of time is, subject to *paragraph (b)*, eligible for re-appointment to the Board at the Minister's discretion.

(b) A member of the Board shall not serve more than 2 consecutive terms of office.

(c) The terms of office referred to in *paragraphs (a)* and *(b)* shall include any term of office as chairperson.

(6) A member of the Board may resign from office by letter sent to the Minister.

Conditions of office of members of Board.

33.—(1) A member of the Board (including the chairperson) may at any time be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions.

(2) A member of the Board shall cease to be and shall be disqualified from being a member of the Board where the member—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is, on conviction on indictment by a court of competent jurisdiction, sentenced to imprisonment, or

(d) is disqualified or restricted from being a director of any company (within the meaning of the Companies Acts, 1963 to 1999).

(3) A person who ceases to be an officer of the Minister for the purposes of appointment under *section 32(2)(a)*, ceases to hold office as a member of the Board.

(4) A member of the Board shall, subject to this Act, hold office on the terms and conditions (including terms and conditions relating to remuneration and allowances) that may be determined by the Minister, with the consent of the Minister for Finance.

Casual vacancies.

34.—(1) If a member of the Board dies, resigns, becomes disqualified or is removed from office, or for any other reason (other than *section 32(4)* or *(5)*) ceases to be a member of the Board, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned.

(2) A person appointed to be a member of the Board under this section shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy. Pt.5 S.34

35.—(1) The term of office of the chairperson of the Board shall be 5 years. Chairperson of Board.

(2) Where the chairperson of the Board ceases to be a member of the Board, he or she also thereupon ceases to be chairperson of the Board.

(3) The chairperson of the Board may at any time resign his or her office as chairperson by letter sent to the Minister and the resignation shall, unless previously withdrawn in writing, take effect at the commencement of the meeting of the Board held next after the Board has been informed by the Minister of the resignation.

(4) The chairperson of the Board shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *subsection (2)* or *(3)*, hold office until the end of his or her term of office and, if he or she is re-appointed as a member of the Board, he or she shall be eligible for re-appointment as chairperson of the Board.

36.—(1) The Board shall hold such and so many meetings as may be necessary for performing its functions. Meetings and procedure.

(2) At a meeting of the Board—

(a) the chairperson of the Board shall, if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson of the Board is not present or if the office of chairperson is vacant, the members of the Board who are present shall choose one of their number to be chairperson of the meeting.

(3) Every question that is to be decided at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(4) Subject to *subsection (5)*, the Board may act notwithstanding one or more than one vacancy among its membership or any deficiency in the appointment of a member that may subsequently be discovered.

(5) Unless the Minister otherwise directs, the quorum for a meeting of the Board shall be 5.

(6) Subject to this Act, the Board shall regulate its procedure by rules or otherwise.

(7) The Minister may provide the Board with the secretarial, clerical and administrative support that the Minister considers necessary or appropriate.

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Membership of either House of the Oireachtas or European Parliament.

37.—(1) A member of the Board who—

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament,
- (c) is regarded pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to the European Parliament to fill a vacancy,
- (d) becomes a member of a local authority, or
- (e) becomes a member of the board of a health board,

thereupon ceases to be a member of the Board.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in the House or who is a representative in the European Parliament is, while he or she is entitled or is a representative, disqualified from becoming a member of the Board.

(3) A person who is a member of a local authority or of the board of a health board is disqualified from becoming a member of the Board.

(4) The Board shall not employ or otherwise retain in any capacity a person who would otherwise be disqualified under this section from becoming a member of the Board.

Consultants and advisers.

38.—(1) Subject to the prior approval of or at the request of the Minister, the Board may from time to time engage any consultants or advisers that the Board or the Minister, as the case may be, may consider necessary for the performance by the Board of its functions.

(2) Any fees payable by the Board to a consultant or adviser engaged under this section shall be paid by the Agency out of the reserve account.

Disclosure of certain interests.

39.—(1) Where a matter is to be decided by the Board at a meeting, any member of the Board present at the meeting who has an interest in the matter, otherwise than as a member, shall—

- (a) at the meeting, in advance of any consideration of the matter, disclose to the Board the fact of the interest and the nature of the interest,
- (b) neither influence nor seek to influence a decision relating to the matter,
- (c) absent himself or herself from any meeting or that part of the meeting during which the matter is discussed,
- (d) take no part in any deliberation of the Board relating to the matter, and
- (e) not vote on a decision relating to the matter.

(2) Where a member discloses an interest in a matter under this section—

(a) the disclosure shall be recorded in the minutes of the meeting, and Pr.5 S.39

(b) for so long as the matter is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting unless the Board otherwise determines.

(3) Where, at a meeting of the Board, a question arises as to whether or not a course of conduct, if pursued by a member of the Board, would be a failure by him or her to comply with the requirements of *subsection (1)*—

(a) the question may be determined by the chairperson of the Board, whose decision shall be final, and

(b) if the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting concerned.

(4) If the Minister is satisfied that a member of the Board has contravened *subsection (1)*, the Minister may, if he or she thinks fit, remove that member from office.

(5) A person who is removed from office under *subsection (4)* is disqualified for membership of the Board.

40.—(1) Subject to *subsection (3)*, a person shall not, unless he or she is duly authorised by the Board, disclose confidential information obtained by him or her while carrying out or as a result of carrying out duties— Unauthorised disclosure of confidential information.

(a) as a member of the Board, or

(b) as a consultant or adviser to the Board or an employee of such person.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) Nothing in *subsection (1)* prohibits the disclosure of information by means of a report made—

(a) to the Board, or

(b) by or on behalf of the Board to the Minister.

(4) In this section “confidential information” includes—

(a) information that is expressed by the Board to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature.

PART 6

DISBURSEMENT OF MONEYS FROM FUND

41.—(1) The moneys in the investment and disbursements account shall be applied by the Agency, on the direction of the Board, for the following purposes: Disbursement of moneys for specified purposes.

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(a) programmes or projects that are designed to assist the personal, educational and social development of persons who are economically, educationally or socially disadvantaged or persons with a disability (within the meaning of the Equal Status Act, 2000) and, in particular, programmes or projects that are designed to assist primary school students with learning difficulties;

(b) any other purposes that the Minister may from time to time determine having regard to the plan prepared under *section 42*.

(2) Whenever a purpose is determined under *subsection (1)(b)*, the Board shall publish notice of the purpose in the *Iris Oifigiúil*.

Plan of Board.

42.—(1) As soon as practicable after its establishment, the Board shall prepare a plan for the disbursement of moneys from the investment and disbursements account and the plan shall include—

(a) the objectives of the Board in making disbursements under this Part and its strategy for achieving those objectives,

(b) the priorities of the Board in respect of particular programmes or projects referred to in *section 41(1)(a)*, and

(c) any other matters that the Minister may from time to time specify when issuing directions or guidelines under *subsection (2)*.

(2) The Minister may issue directions or guidelines to the Board concerning the preparation of the plan and the Board shall comply with those directions and prepare the plan in accordance with those guidelines.

(3) The Board shall review and, if necessary, update the plan not later than 3 years after its establishment and at least once in every 3 years thereafter.

Regulations in relation to disbursements.

43.—Following consultation with the Board, the Minister may make regulations relating to the disbursement of moneys from the investment and disbursements account under this Part, including regulations providing for:

(a) the criteria for eligibility for a disbursement;

(b) the procedure for making an application to the Board for a disbursement;

(c) the determination procedure;

(d) the procedure for making disbursements;

(e) the form and manner in which the procedures referred to in *paragraphs (b), (c) and (d)* shall be carried out;

(f) any other matters that the Minister considers appropriate.

Making of disbursements.

44.—(1) When giving a direction to the Agency in relation to the making of a disbursement under this Part, the Board shall have

regard to the plan prepared under *section 42* and the regulations made under *section 43*. Pr.6 S.44

(2) Where it is proposed to make a disbursement under this Part in excess of €300,000, the Board shall submit details of the proposal, in writing, to the Minister for his or her prior consent before giving a direction to the Agency to make the disbursement.

(3) Disbursements made under this Part shall, subject to regulations made under *section 43*, be in the form and subject to the terms and conditions that may be determined from time to time by the Board with the approval of the Minister given with the consent of the Minister for Finance.

PART 7

MISCELLANEOUS

45.—(1) The Agency shall, not later than 31 March in each year, make a report to the Board in relation to the Fund for the previous financial year and, in particular, the report shall include— Reports.

- (a) details of the amount transferred to the Fund,
- (b) the investment return achieved by the Fund,
- (c) details of the costs and expenses incurred by the Agency in relation to the performance of its functions under this Act,
- (d) details of the remuneration, fees and allowances for expenses of the inspectors referred to in *section 17(4)(a)(ii)*,
- (e) the current balance in the Fund, and
- (f) any other information that may be required by the Board,

and the first report shall be made not later than 31 March 2004.

(2) The Board shall, not later than 30 June in each year, make a report to the Minister on the performance of its functions and its activities during the previous financial year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas as soon as practicable after its receipt by the Minister and the first report shall be made not later than 30 June 2004.

(3) A report made under *subsection (2)* shall include—

- (a) particulars of those to whom disbursements were made by the Board under *Part 6* and the amount of each disbursement,
- (b) details of the costs and expenses incurred by the Board in the performance of its functions under this Act,
- (c) a copy of the report of the Agency made under *subsection (1)*, and
- (d) any other information that may be required by the Minister.

Pt.7 S.45

(4) The Agency or the Board, as the case may be, shall provide the Minister with any further information regarding the performance of its functions that the Minister may from time to time require.

Accounts and audits.

46.—(1) The Agency shall, in relation to the Fund, keep in a form that may be specified by the Minister for Finance all proper and usual accounts of all moneys received or expended by the Agency and, in particular, shall keep any special accounts that the Minister for Finance may from time to time direct.

(2) The accounts kept in accordance with *subsection (1)* shall include a record of the costs and expenses incurred by the Agency in the management and control of the Fund.

(3) Accounts kept under this section shall be submitted as soon as practicable, but not later than 4 months after the end of the financial year to which they relate, by the Agency to the Comptroller and Auditor General for audit and a copy of the accounts as so audited shall be presented to the Minister as soon as practicable and the Minister shall cause a copy of the accounts as so audited to be laid before each House of the Oireachtas.

Accountability.

47.—(1) The Chief Executive of the Agency shall, in relation to the functions of the Agency under this Act, whenever required by the Committee of Public Accounts, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Chief Executive is required by or under statute to prepare,
- (b) the economy and efficiency of the Agency in the use of its resources,
- (c) the systems, procedures and practices employed by the Agency for the purpose of evaluating the effectiveness of its operations under this Act, and
- (d) any matter affecting the Agency referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act, 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) Whenever required by the Committee of Public Accounts, the chairperson of the Board shall, give evidence to that Committee on any matter relating to the functions of the Board under this Act.

(3) When performing duties under this section, the Chief Executive of the Agency or the chairperson of the Board, as the case may be, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(4) In this section “Committee of Public Accounts” means the Committee of Dáil Éireann established under the Standing Orders

[2001.] *Dormant Accounts Act, 2001.* [No. 32.]

of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General. Pr.7 S.47

48.—(1) Where an institution—

Confidentiality.

(a) transfers moneys to the Fund under *section 12*, or

(b) notifies the Agency of a claim for repayment under *section 19(3)*,

the institution concerned shall not refer to an account holder by name or in any manner by which they could be identified as being an account holder.

(2) Where the Minister for Finance—

(i) transfers moneys to the Fund under *section 36(1)* (as amended by *section 28*) of the State Property Act, 1954, or

(ii) applies for repayment under *section 29*,

he or she shall not refer to a deceased person or a person to whom or on whose behalf a payment is to be made under *section 36(2)* of that Act by name or in any manner by which they could be identified.

SCHEDULE

PART 1

Each of the following shall be an institution for the purposes of this Act:

- (a) a bank that holds or held a licence under section 9 of the Central Bank Act, 1971;
- (b) a building society incorporated or deemed to be incorporated under the Building Societies Act, 1989, or a body incorporated in a corresponding manner under the law of any other Member State of the European Communities;
- (c) a trustee savings bank within the meaning of the Trustee Savings Banks Act, 1989;
- (d) ACC Bank plc;
- (e) An Post;
- (f) a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992), to carry on business in the State;
- (g) a class or classes of person or institution specified in regulations under *section 9*.

PART 2

1. Accounts under the control of the courts, including accounts held by any of the following:

- (a) the Accountant of the Courts of Justice or the Accountant, Four Courts, Dublin;
- (b) a county registrar;
- (c) a district court clerk;
- (d) a judge of the Circuit Court;
- (e) a judge of the District Court;
- (f) the General Solicitor for Minors and Wards of Court;
- (g) the Official Assignee in Bankruptcy;
- (h) the Examiner;
- (i) the Probate Officer;
- (j) the Admiralty Marshall;
- (k) the Courts Service.

2. The Companies Liquidation Account.

3. The Bankruptcy Dividend Account.

[2001.] *Dormant Accounts Act, 2001.* [No. 32.]

4. An account in respect of which— SCH.

- (a) the institution at which the account is held has a lien, or
- (b) there is a right of set-off in favour of that institution against a liability.