Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 1 *of* 2009

ANGLO IRISH BANK CORPORATION ACT 2009

REVISED

Updated to 8 February 2019

This revised Act is an administrative consolidation of the *Anglo Irish Bank Corporation Act 2009*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Local Government Act 2019* (1/2019), enacted 25 January 2019, and all statutory instruments up to and including *Anglo Irish Bank Corporation Act 2009 (Section 36) Regulations 2019* (S.I. No. 35 of 2019), made 7 February 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



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AN ACT TO PROVIDE, IN THE PUBLIC INTEREST, FOR MAINTAINING THE STABILITY OF THE FINANCIAL SYSTEM IN THE STATE, AND FOR THAT PURPOSE—

(A) TO PROVIDE FOR THE TRANSFER TO THE MINISTER FOR FINANCE OR THE MINISTER'S NOMINEE OF ALL THE SHARES IN ANGLO IRISH BANK CORPORATION PUBLIC LIMITED COMPANY,

(B) TO EXTINGUISH CERTAIN RIGHTS IN ANGLO IRISH BANK,

(C) TO DISAPPLY CERTAIN PROVISIONS OF THE COMPANIES ACTS AND OTHER ENACTMENTS IN SO FAR AS THEY RELATE TO ANGLO IRISH BANK,

(D) TO PROVIDE FOR THE REMOVAL OF PERSONS FROM CERTAIN OFFICES, POSITIONS OR EMPLOYMENT WITH ANGLO IRISH BANK AND THE APPOINTMENT OF PERSONS TO THOSE OFFICES OR POSITIONS OR THAT EMPLOYMENT,

(E) TO PROVIDE FOR THE APPOINTMENT OF AN ASSESSOR TO ASSESS WHETHER COMPENSATION SHOULD BE PAID TO PERSONS WHOSE SHARES WERE TRANSFERRED TO THE MINISTER FOR FINANCE OR WHOSE RIGHTS WERE EXTINGUISHED, AND IF SO TO DETERMINE THE FAIR AND REASONABLE AMOUNT PAYABLE AS SUCH COMPENSATION,

(F) TO PROVIDE FOR THE PAYMENT OF ANY SUCH COMPENSATION,

(G) TO MAKE CONSEQUENTIAL AMENDMENTS TO CERTAIN OTHER ENACTMENTS, AND

(H) TO PROVIDE FOR CONNECTED MATTERS.

[21*st January*, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Act, other than s. 2, included in definition of "designated enactments" for purposes of *Central Bank Act 1942* (22/1942) by *Central Bank Act 1942* (22/1942), s. 2(1) and sch. 2 part 1 item 35, as substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1 part 1 items 6 and 82, S.I. No. 469 of 2010.

Definitions.

1.— In this Act—

"Anglo Irish Bank" means the company known before its re-registration by virtue of *section 6* as Anglo Irish Bank Corporation Public Limited Company and, after that re-registration, as Anglo Irish Bank Corporation Limited;

"articles" means articles of association;

"Assessor" means the person appointed under *section 22*;

"Central Bank" means the Central Bank F1**[**...**]** of Ireland;

"commercially sensitive information" means information the disclosure of which could reasonably be expected to—

(*a*) materially prejudice the commercial or industrial interests of a person or of a group or class of persons, or

(*b*) prejudice the competitive position of a person in the conduct of the person's business, profession or occupation;

"credit institution" has the same meaning as in the Central Bank Act 1997;

"extinguished rights" means rights extinguished by *section 10(1)* in or in relation to Anglo Irish Bank;

"Governor" has the same meaning as in the Central Bank Act 1942;

"memorandum" means memorandum of association;

"Minister" means Minister for Finance;

"nominee" means nominee of the Minister, including a nominee that is a company;

"regulated market" has the same meaning as in the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007);

F2**[**...**]**

"security interest" includes any mortgage, charge, lien, pledge or other encumbrance;

"shares" includes ordinary shares, preference shares, share warrants and stock;

"subsidiary", in relation to Anglo Irish Bank, has the same meaning as in section 155 of the Companies Act 1963;

"subsidiary undertaking", in relation to Anglo Irish Bank, has the same meaning as in the European Communities (Companies: Group Accounts) Regulations 1992 (S.I. No. 201 of 1992);

"transferred shares" means the shares in Anglo Irish Bank transferred to the Minister under *section 5*.

Annotations

Amendments:

F1 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 1, S.I. No. 469 of 2010.

F2 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 2, S.I. No. 469 of 2010.

Editorial Notes:

E2 *Central Bank Reform Act 2010* (23/2010), s. 15(14) and sch. 2 part 14 par. 30 provides for the substitution of "Central Bank of Ireland" for "Central Bank and Financial Services Authority of Ireland" in the definition of "Central Bank" in section. This amendment was already made by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 1, as per F note above.

Functions performed in the public interest.

2.— (1) The Minister has, in the public interest, the functions provided for under this Act because, after consulting the directors of Anglo Irish Bank, the Governor and the Regulatory Authority, the Minister is of the opinion that—

(*a*) there are serious concerns about the viability of Anglo Irish Bank, or would be if those functions were not performed, and

(*b*) the performance of those functions is necessary, in the public interest—

(i) to remedy a serious disturbance in the economy of the State,

(ii) to prevent potential serious damage to the financial system in the State and ensure the continued stability of that system, and

(iii) to preserve the capacity of Anglo Irish Bank to continue its operations as a going concern.

(2) The Minister may continue to consult the Governor F3**[**and the Central Bank**]** in the continuing performance of the Minister's functions under this Act.

(3) Nothing in this Act prevents the performance by the Central Bank F4**[**...**]** of its functions in relation to Anglo Irish Bank or any credit institution authorised or regulated in the State, or affects any obligation arising under the treaties governing the European Communities (within the meaning given by section 1 of the European Communities Act 1972) or the ESCB Statute (within the meaning given by section 2 of the Central Bank Act 1942).

Annotations

Amendments:

F3 Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 3, S.I. No. 469 of 2010.

F4 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 4, S.I. No. 469 of 2010.

Relationship framework between the Minister and Anglo Irish Bank.

3.— (1) The Minister may from time to time specify a relationship framework in writing to govern the relationship between the Minister or the Minister's nominee and Anglo Irish Bank, and may from time to time amend or revoke any such relationship framework. The relationship framework shall recognise the separation of Anglo Irish Bank from the Minister or the Minister's nominee and limit intervention by the Minister or the Minister's nominee in the conduct of Anglo Irish Bank's business to that necessary to protect the public interest. The relationship framework shall at all times comply with regulatory requirements.

(2) Anglo Irish Bank and any nominee of the Minister shall act in accordance with any relationship framework specified under *subsection (1)*.

(3) The Minister may give a direction in writing to Anglo Irish Bank requiring it to do or refrain from doing anything the doing or refraining from doing of which is, in the opinion of the Minister, necessary or expedient in the public interest, subject to regulatory requirements.

(4) The Minister may authorise the Minister's nominee to give a direction under *subsection (3)*, and a direction given by a nominee under such an authority has the same effect as a direction by the Minister.

(5) Anglo Irish Bank shall comply with a direction under *subsection (3)*.

Effect of this Act.

4.— The provisions of this Act have effect notwithstanding anything in—

(*a*) the Companies Acts or any other enactment, or

(*b*) the memorandum and articles of Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings.

Acquisition of shares in Anglo Irish Bank.

5.— (1) On the commencement of this Act, all the shares in Anglo Irish Bank are transferred to the Minister.

(2) *Subsection (1)* transfers the shares in Anglo Irish Bank without the necessity for any instrument.

(3) *Subsection (1)* vests title to the shares in the Minister—

(*a*) freed from any liability or any equitable or beneficial right, title or interest (including a security interest) formerly attaching to any such share, and

(*b*) together with all rights, benefits and privileges which, on or after the commencement of this Act, attach or accrue to or arise from any such share.

Effect of acquisition of shares.

6.— (1) On the commencement of this Act, the Minister—

(*a*) is to be taken to be entered in the register of members of Anglo Irish Bank as the holder of the transferred shares, and

(*b*) becomes a member of Anglo Irish Bank.

(2) On the commencement of this Act—

(*a*) Anglo Irish Bank becomes a private company limited by shares, under the name of "Anglo Irish Bank Corporation Limited",

(*b*) its memorandum is to be taken to have been amended to reflect its status as a private company limited by shares,

(*c*) its objects clause is to be taken to provide for, as objects, the doing of anything required by or authorised by this Act, and acting in support of, connection with and furtherance of the purposes of this Act,

(*d*) its articles are to be taken to have been amended to comply with section 33 of the Companies Act 1963 and are to be construed accordingly, and

(*e*) the registrar of companies shall issue to it a certificate of incorporation appropriate to a private company limited by shares.

(3) A share certificate issued before the commencement of this Act in relation to shares in Anglo Irish Bank is not evidence of the ownership, at a time after that commencement, of the shares (other than for the purposes of establishing an entitlement to compensation).

(4) Anglo Irish Bank may not make a call to pay up any outstanding amounts due in respect of any of the shares at any time while the Minister or the Minister's nominee holds those shares. However, a person who is, at the commencement of this Act, liable to pay to Anglo Irish Bank an amount due in respect of any of those shares remains so liable notwithstanding anything in this subsection.

(5) Publication of this Act is to be taken to satisfy the requirement under the European Communities (Single-Member Private Limited Companies) Regulations 1994 (S.I. No. 275 of 1994)) to give notice of Anglo Irish Bank's becoming a single-member private limited company (within the meaning of those Regulations) as a result of the transfer of its shares to the Minister under this Act.

General exercise of Minister's rights as shareholder.

7.— (1) The rights of the Minister as a shareholder in Anglo Irish Bank are exercisable on and from the commencement of this Act.

(2) Where a right or power in respect of a share in Anglo Irish Bank is exercisable by attorney or proxy, the Minister may appoint an attorney or proxy who may exercise the right or power on the Minister's behalf.

Minister's power to transfer shares to nominee.

8.— (1) The Minister may at any time transfer some or all of the shares that he or she holds in Anglo Irish Bank to a nominee of the Minister specified by the Minister from time to time.

(2) A nominee of the Minister holds shares transferred to him or her on such terms as the Minister specifies, having regard to the public interest and regulatory requirements.

(3) The Minister's nominee shall not transfer any such share other than to the Minister or another nominee of the Minister.

(4) The Minister's nominee may exercise all of the Minister's functions in relation to Anglo Irish Bank, being functions expressed to be exercisable by the Minister's nominee.

(5) The Minister may by order confer on a nominee of the Minister any other function of the Minister under this Act.

(6) Notice of the making of an order under *subsection (5)* shall be published as soon as is practicable in *Iris Oifigiúil*.

(7) The nominee specified by the Minister under *subsection (1)* may be the National Treasury Management Agency and, if so, the functions of that Agency are to be taken to include that of acting as a nominee of the Minister for the purposes of this Act.

Effect on certain other rights.

9.— (1) In this section "relevant instrument" means an agreement, licence, security, obligation or other instrument (other than the Credit Institutions (Financial Support) Scheme 2008 (S.I. No. 411 of 2008) or an instrument entered into under that Scheme) to which any of the following is a party or by which any of the following is bound:

(*a*) Anglo Irish Bank;

(*b*) any of its subsidiaries or subsidiary undertakings;

(*c*) any body corporate in which Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings has any interest.

(2) Any provision in a relevant instrument that would (apart from this subsection) cause any of the consequences specified in *subsection (4)* to follow by virtue of—

(*a*) the announcement by the Minister of the intention to enact this Act,

(*b*) the transfer of shares to the Minister under this Act,

(*c*) the re-registration of Anglo Irish Bank as a private company limited by shares by virtue of *section 6*,

(*d*) the de-listing of any equity or other security by virtue of *section 12*, or

(*e*) any other thing done or authorised to be done pursuant to or resulting from any provision of this Act,

is of no effect, except to any extent to which the Minister provides otherwise by order under *subsection (5)*.

(3) A provision referred to in *subsection (2)* shall be taken never to have been of any effect at any time after 14 January 2009, except to any extent to which the Minister provides otherwise by order under *subsection (5)*.

(4) The consequences are the following:

(*a*) the creation of an obligation;

(*b*) the suspension or extinction (however described, and whether in whole or in part) of a right or an obligation or the becoming subject to a right or an obligation;

(*c*) the termination of the relevant instrument concerned or a right or obligation under it;

(*d*) the becoming exercisable of a right to terminate the instrument or a right or obligation under it;

(*e*) the becoming due and payable or capable of being declared due and payable of an amount;

(*f*) any other change in the amount or timing of any payment falling to be made or due to be received by any person;

(*g*) the becoming exercisable of any right to withhold, net or set off any payment;

(*h*) the arising of an event of default or breach of a right;

(*i*) the becoming exercisable of any right not to advance any amount, contingent instrument or credit;

(*j*) the arising of an obligation to provide or transfer a deposit or collateral;

(*k*) a right to enforce a guarantee, indemnity or security interest (however described);

(*l*) the triggering of any mandatory prepayment;

(*m*) any obligation to return collateral or its equivalent;

(*n*) the cancellation of any obligation to advance any amount or to provide credit or a contingent instrument;

(*o*) the becoming maintainable of proceedings to enforce the instrument, to any extent that such proceedings would not have been maintainable had the shares not been transferred or had any other thing done or matter arising by virtue of or in connection with this Act not been done or not arisen, as the case may be;

(*p*) the arising or becoming exercisable of any other right or remedy (whether or not similar in kind to those referred to in *paragraphs (a)* to *(o)*);

(*q*) the termination or alteration of an obligation to provide a service or product.

(5) If the Minister is satisfied that in a particular case or cases the effect of *subsections (1)* to *(4)* in all the circumstances is unduly onerous, or causes undue unfairness or undue hardship, and that it is appropriate in all the circumstances to do so, he or she may by order provide that, notwithstanding anything in those subsections, a provision in a relevant instrument that provides for a consequence mentioned or referred to in *subsection (4)* has effect to the extent specified in the order.

(6) An order under *subsection (5)*—

(*a*) may make provision in relation to the effect of a provision in—

(i) a particular relevant instrument,

(ii) relevant instruments of a particular kind, or

(iii) rights held under a relevant instrument, or relevant instruments of a particular kind, by a particular person or a particular class of persons,

(*b*) in the case of an order that makes provision in relation to relevant instruments of a particular kind, may specify the kind by reference to any common characteristic of the instruments concerned,

(*c*) in the case of an order that makes provision in relation to rights held by a particular class of persons, may specify the class by reference to any common characteristic of the persons concerned, and

(*d*) may be expressed to have retrospective effect to a date falling after 14 January 2009.

(7) Notice of the making of an order under *subsection (5)* shall be published as soon as is practicable in *Iris Oifigiúil*.

(8) If the Attorney General considers that an order under *subsection (5)* contains matter that is commercially sensitive, he or she may direct—

(*a*) that the obligations in relation to the order under section 3(1) of the Statutory Instruments Act 1947 are to be taken to be satisfied by the printing, sending to the institutions mentioned in section 3(1)(*a*) of that Act, publication and sale of a version of the order from which the commercially sensitive matter is omitted, or

(*b*) if the preparation of such a version would be impracticable, or would result in the version being seriously misleading, that the order is exempt from the operation of section 3(1) of that Act.

(9) A version of an order prepared in accordance with a direction given by the Attorney General under *subsection (8)(a)* shall indicate that matter has been omitted from the version of the order and the general nature of that matter.

(10) A direction given by the Attorney General under *subsection (8)* shall be published in *Iris Oifigiúil*.

(11) Evidence of a direction given by the Attorney General under *subsection (8)* may be given by the production of a copy of *IrisOifigiúil* purporting to contain the direction.

(12) Nothing in this Act affects the operation of the Asset Covered Securities Acts 2001 and 2007 in relation to Anglo Irish Bank and its subsidiaries and subsidiary undertakings.

Extinguishment of certain rights in relation to shares.

10.— (1) On the commencement of this Act, the following rights are extinguished as against the Minister and Anglo Irish Bank:

(*a*) rights (however described) to subscribe for shares, or options over shares, in Anglo Irish Bank arising from or in connection with an individual's employment by or office with Anglo Irish Bank, or any of its subsidiaries or subsidiary undertakings;

(*b*) other options or rights held by a person to subscribe for or otherwise acquire, from Anglo Irish Bank, shares in Anglo Irish Bank.

(2) At any time after the commencement of this Act, Anglo Irish Bank may resolve to vary the rights attaching to any shares in a company that is its subsidiary or subsidiary undertaking. Such resolution has full force and effect from the date of the resolution notwithstanding anything in the Companies Acts or the memorandum or articles of the company concerned.

Equitable interests in shares.

11.— (1) If any transferred shares were subject, immediately before the commencement of this Act, to an equitable or beneficial right, title or interest (including a security interest), the person who was the legal owner of those shares immediately before that commencement holds any sum paid to him or her as compensation for the acquisition of those shares in trust for the person who held the right, title or interest in proportion to the entitlement concerned.

(2) A person who holds money in trust for another person under *subsection (1)* does so on the same terms (as nearly as possible) as those of the right, title or interest referred to in that subsection.

De-listing.

12.— (1) On the commencement of this Act, any listing of shares of Anglo Irish Bank is discontinued without the need for any other notice to, or the consent of, any person.

(2) In *subsection (1)* "listing" has the same meaning as in the European Communities (Admissions to Listing and Miscellaneous Provisions) Regulations 2007 (S.I. No. 286 of 2007).

(3) The Minister may by order make provision for discontinuing the admission to, or trading on, a market (including a regulated market) of any securities (other than those described in *subsection (1)*) that have been issued by Anglo Irish Bank.

(4) Notice of the making of an order under *subsection (3)* shall be published as soon as is practicable in *Iris Oifigiúil*.

Disapplication, etc., of certain provisions of Central Bank Acts.

13.— (1) Subsections (1) and (2) of section 57DF (inserted by the Central Bank and Financial Services Authority of Ireland Act 2004) of the Central Bank Act 1942 (in this section called the "Act of 1942") do not apply with respect to a regulatory document or a policy document that concerns Anglo Irish Bank.

(2) The Minister may by order re-apply either or both of subsections (1) and (2) of section 57DF of the Act of 1942 in relation to a regulatory document or a policy document that concerns Anglo Irish Bank.

(3) An order under *subsection (2)* may re-apply either or both of subsections (1) and (2) of section 57DF of the Act of 1942 in relation to—

(*a*) a particular regulatory document or policy document, or

(*b*) regulatory documents or policy documents of a particular class.

(4) Notice of the making of an order under *subsection (2)* shall be published as soon as is practicable in *Iris Oifigiúil*.

(5) The disapplication of subsections (1) and (2) of section 57DF of the Act of 1942 by *subsection (1)* does not affect the right of the Regulatory Authority to consult—

(*a*) the Consultative Consumer Panel pursuant to section 57CY of that Act, or

(*b*) the Consultative Industry Panel pursuant to section 57DB of that Act.

(6) Section 57DE(3) of the Act of 1942 does not apply with respect to any consultation with the Consultative Consumer Panel or the Consultative Industry Panel that concerns or may concern Anglo Irish Bank during a period when subsections (1) and (2) of section 57DF of that Act were disapplied under *subsection (1)*.

(7) Paragraphs (*b*) to (*f*) of section 28(1) of the Central Bank Act 1971 do not apply in relation to Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings while the Minister or the Minister's nominee is a member of it.

(8) In this section, a term also used in Part VIIC (inserted by the Central Bank and Financial Services Authority of Ireland Act 2004) of the Act of 1942 has the same meaning as in that Part.

(9) This section has effect notwithstanding *section 2(3)*.

Disapplication, etc., of certain laws relating to companies.

14.— (1) Nothing done under this Act constitutes a re-organisation measure for the purposes of—

(*a*) the European Communities (Re-organisation and Winding-Up of Credit Institutions) Regulations 2004 (S.I. No. 198 of 2004), or

(*b*) the European Communities (Reorganisation and Winding-up of Insurance Undertakings) Regulations 2003 (S.I. No. 168 of 2003).

(2) During the period of 90 days (or any longer period, up to 6 months, prescribed by the Minister by order) after any change that would, but for this subsection, require to be disclosed in the business letters and emails and on the website of Anglo Irish Bank, the provisions of the Companies Acts requiring such disclosure do not apply to it.

(3) Notice of the making of an order under *subsection (2)* shall be published as soon as is practicable in *Iris Oifigiúil*.

(4) The following provisions of the Companies Acts:

(*a*) sections 60(1), 72, 81 to 85 and 200(1) of the Companies Act 1963;

(*b*) sections 41 and 45 of the Companies (Amendment) Act 1983;

(*c*) section 26(6) and Part IV of the Companies Act 1990;

do not apply in relation to Anglo Irish Bank or its subsidiaries or subsidiary undertakings while the Minister or the Minister's nominee is a member of Anglo Irish Bank.

(5) No other provision of law or of the memorandum or articles of Anglo Irish Bank that would otherwise prevent or restrict the Minister or the Minister's nominee from exercising all of the powers, rights and entitlements of members of a company applies to it or to the membership of it by the Minister or the Minister's nominee.

(6) Notwithstanding *subsections (4)* and *(5)*, the Minister or the Minister's nominee may, after consulting the directors of Anglo Irish Bank, act in accordance with any provision (in whole or in part) referred to in either of those subsections as if that provision continued to apply.

(7) A petition may not be brought for the winding up of Anglo Irish Bank under Part VI of the Companies Act 1963 without the leave of the Minister.

(8) The Minister may by order re-apply any provision referred to in *subsection (4)* in relation to Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings.

(9) Notice of the making of an order under *subsection (8)* shall be published as soon as is practicable in *Iris Oifigiúil*.

(10) Nothing in this section has the effect of disapplying any requirement to keep records, or record resolutions, in an appropriate form.

(11) Nothing in this section has the effect of—

(*a*) rendering lawful any contravention of any provision referred to in this section that took place before the commencement of this Act,

(*b*) relieving any person from any obligation to comply, at any time before the commencement of this Act, with any such provision, or

(*c*) prejudicing any proceedings brought or to be brought in relation to a contravention, or the breach of an obligation, referred to in *paragraph (a)* or *(b)*.

Disapplication of certain provisions of Competition Act 2002 and Credit Institutions (Financial Support) Act 2008.

15.— (1) Parts 2 and 3 of the Competition Act 2002 do not apply with respect to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act.

(2) Section 7 of the Credit Institutions (Financial Support) Act 2008 does not apply with respect to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act.

Disapplication of certain requirements in relation to notice of acquisition of shares.

16.— (1) Chapter VI of Part II of the Central Bank Act 1989 does not apply in relation to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act.

(2) Regulation 14 (other than paragraph (9) of that Regulation) of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) does not apply in relation to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act.

(3) Part 4 (except paragraphs (3) and (4) of Article 40C) of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994) does not apply in relation to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act.

(4) Neither the acquisition by the Minister, nor the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act is—

(*a*) an offer, a takeover or any other relevant transaction within the meaning of the Irish Takeover Panel Act 1997, or

(*b*) a takeover bid within the meaning of the European Communities Takeover Bids (Directive 2004/25/EC) Regulations 2006 (S.I. No. 255 of 2006).

(5) The following do not apply to the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee, of shares in Anglo Irish Bank under this Act:

(*a*) Part 5 of the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007);

(*b*) Part 7 of the Transparency Rules made in June 2007 by the Irish Financial Services Regulatory Authority under section 22 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006.

(6) Publication of this Act is to be taken to satisfy any other obligation of the Minister under any law to give notice of, or do any other thing in relation to, the acquisition by the Minister, or the transfer by the Minister to the Minister's nominee of shares in Anglo Irish Bank under this Act.

(7) This section has effect notwithstanding *section 2(3)*.

Suspension, etc., of articles of Anglo Irish Bank.

17.— (1) No provision of the Companies Acts nor the memorandum nor articles of Anglo Irish Bank requiring any notice to be given by Anglo Irish Bank or a member, or any consent to be obtained, before doing anything applies in relation to that Bank while the Minister or the Minister's nominee is a member of it. In particular, the Minister or the Minister's nominee may at any time without any notice or consent otherwise necessary—

(*a*) hold any meeting (including a general meeting) of Anglo Irish Bank,

(*b*) pass, at a meeting convened without notice, any resolution,

(*c*) take a decision in the way set out in Regulation 9 of the European Communities (Single-Member Private Limited Companies) Regulations 1994 (S.I. No. 275 of 1994), but without the limitation imposed by paragraph (2) of that Regulation, and

(*d*) pass a written resolution in the way set out in section 141(8)(*a*) of the Companies Act 1963, but without the limitation imposed by section 141(8)(*c*) of that Act.

(2) Where the memorandum and articles of Anglo Irish Bank are altered by a resolution under *paragraph (b)*, *(c)* or *(d)* of *subsection (1)*, the alteration takes effect immediately, without any necessity for regulatory or other consent.

(3) The articles of Anglo Irish Bank are to be taken to contain regulation 6 of Part II of Table A in the First Schedule to the Companies Act 1963.

(4) The provisions of the articles of Anglo Irish Bank authorising its directors to issue and allot shares are to be taken not to have had effect during the period beginning on 15 January 2009 and ending at the commencement of this Act.

Minister may alter financial year of Anglo Irish Bank.

18.— (1) The Minister or the Minister's nominee may, after consulting the directors of Anglo Irish Bank, change its financial year.

(2) Any accounts, reports or returns that would be required by law (other than a law relating to taxation) or the articles of Anglo Irish Bank to be prepared or submitted for a financial year shall, in respect of the portion of the financial year immediately preceding a change of financial year by virtue of *subsection (1)*, be included and form part of the accounts, reports or returns, as the case may be, for the first year of the changed financial year.

Removal of directors, etc., of Anglo Irish Bank.

19.— (1) The Minister or the Minister's nominee may remove any person from—

(*a*) a position of director of Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings,

(*b*) being its secretary or the secretary of any of its subsidiaries or subsidiary undertakings,

(*c*) any of the following:

(i) a position of employment with it or any of its subsidiaries or subsidiary undertakings;

(ii) an executive position (including the chief executive and any such position held by virtue of being a director or secretary of it or any of its subsidiaries or subsidiary undertakings) in it or any of its subsidiaries or subsidiary undertakings;

(iii) a consultancy to it or any of its subsidiaries or subsidiary undertakings;

whether or not there is a contractual relationship between the person and it, or between the person and the subsidiary or subsidiary undertaking, as the case requires,

(*d*) being its auditor or the auditor of any of its subsidiaries or subsidiary undertakings,

(*e*) being the trustee of a pension fund established or otherwise in existence primarily for the benefit of one or more of, or any class or classes of, the following:

(i) officers or employees of it or any of its subsidiaries or subsidiary undertakings;

(ii) former officers or employees of it or any of its subsidiaries or subsidiary undertakings;

(iii) spouses and dependants of deceased former officers or employees of it or any of its subsidiaries or subsidiary undertakings, or

(*f*) being the trustee of an employee share scheme established for the benefit of employees of it or any of its subsidiaries or subsidiary undertakings.

(2) The removal of a person by virtue of *subsection (1)*—

(*a*) has effect without the need for any notice being given, meeting being called, resolution being passed or consent being obtained, and

(*b*) may be expressed to take effect immediately and, if so expressed, has that effect.

(3) *Subsection (1)* is in addition to any power of the Minister or the Minister's nominee under the Companies Acts or the memorandum or articles of Anglo Irish Bank to remove a person from an office or position referred to in *subsection (1)*.

(4) The functions of the Minister or the Minister's nominee under this section shall be exercised only in the public interest (including the restoration of public confidence in Anglo Irish Bank) and subject to regulatory requirements.

(5) Nothing in this section deprives a person removed of any right to compensation or damages for the loss of his or her office or appointment. However—

(*a*) a court, tribunal or rights commissioner may not grant any remedy that would have the effect of preventing or restraining the Minister or the Minister's nominee from exercising his or her functions under *subsection (1)*, and

(*b*) a court, tribunal or rights commissioner may not make any order under the Unfair Dismissals Acts 1977 to 2007 for the reinstatement or re-engagement of such a person.

(6) In this section "director" includes a director appointed under *section 20*.

Appointment of directors, etc., of Anglo Irish Bank.

20.— (1) With the consent of the Central Bank, the Minister or the Minister's nominee may appoint a person as—

(*a*) a director of Anglo Irish Bank or any of its subsidiaries or subsidiary undertakings,

(*b*) its chief executive or the chief executive of any of its subsidiaries or subsidiary undertakings,

(*c*) its secretary or the secretary of any of its subsidiaries or subsidiary undertakings,

(*d*) its auditor or the auditor of any of its subsidiaries or subsidiary undertakings,

(*e*) the trustee of a pension fund established or otherwise in existence primarily for the benefit of one or more of, or any classes or classes of, the following:

(i) officers or employees of it or any of its subsidiaries or subsidiary undertakings;

(ii) former officers or employees of it or any of its subsidiaries or subsidiary undertakings;

(iii) spouses and dependants of deceased former officers or employees of it or any of its subsidiaries or subsidiary undertakings,

or

(*f*) the trustee of an employee share scheme established for the benefit of employees of it or any of its subsidiaries or subsidiary undertakings,

whether any vacancy concerned arises under *section 19(1)* or otherwise.

(2) Subject to *subsection (3)*, the appointment of a person under this section may be expressed to take effect immediately and, if so expressed, has that effect.

(3) A person appointed under this section holds office for the duration, and upon the terms and conditions, that the Minister or the Minister's nominee determines.

(4) An appointment under *subsection (1)* is effective—

(*a*) even if the person appointed does not hold any share qualification required by the memorandum or articles of Anglo Irish Bank or the subsidiary or subsidiary undertaking (as the case may be) concerned, and

(*b*) whether or not he or she satisfies any other requirement for appointment under that memorandum or those articles.

(5) S*ubsections (1)* to *(4)* are in addition to any power of the Minister or the Minister's nominee under the memorandum or articles of Anglo Irish Bank to appoint a person to an office or position referred to in *subsection (1)*.

(6) The functions of the Minister or the Minister's nominee under this section shall be exercised only in the public interest (including the restoration of public confidence in Anglo Irish Bank) and subject to regulatory requirements.

No shadow or *de facto* directorship.

21.— (1) While the Minister or the Minister's nominee is a member of Anglo Irish Bank, none of the persons mentioned in *subsection (2)* is to be taken to be a shadow director (within the meaning given by section 27(1) of the Companies Act 1990) nor what is known as a *de facto* director nor (unless otherwise appointed as a director) as a person discharging managerial responsibilities of—

(*a*) Anglo Irish Bank,

(*b*) any of its subsidiaries, or

(*c*) any of its subsidiary undertakings.

(2) The persons are—

(*a*) the Minister,

(*b*) the Minister's nominee,

(*c*) any person to whom the Minister's functions under this Act are delegated, whether under the National Treasury Management Agency Act 1990 or otherwise,

(*d*) the Governor,

(*e*) any director of the Central Bank,

(*f*) F5**[**...**]**

(*g*) officers of, or consultants or advisors to, and persons employed by or under, or acting on behalf of, the Minister, the Central Bank F6**[**...**]**.

Annotations

Amendments:

F5 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 5, S.I. No. 469 of 2010.

F6 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 15(1) and sch. 2 part 1 item 6, S.I. No. 469 of 2010.

Appointment of Assessor.

22.— (1) The Minister shall, as soon as he or she considers it appropriate in the circumstances, appoint a person (referred to in this Act as the "Assessor") to determine, in accordance with this Act, the fair and reasonable aggregate value of

the transferred shares and the extinguished rights and the consequent amount of compensation, if any, payable to persons in respect of those shares and those rights.

(2) In deciding whether it is an appropriate time to appoint the Assessor, the Minister shall have regard to the public interest.

(3) In appointing a person as the Assessor, the Minister shall ensure that the person has, in the Minister's opinion, significant knowledge or experience of the financial services sector.

(4) The Minister may not appoint a person as the Assessor unless the Minister is satisfied that the person would, if appointed, have no conflict of a material nature between any personal or business interests and the performance of the Assessor's functions.

(5) A person is not eligible to be appointed as the Assessor if the person—

(*a*) is a member of either House of the Oireachtas or is, with the person's consent, nominated as a candidate for election as such a member,

(*b*) is a member of the European Parliament or is, with the person's consent, nominated as a candidate for election as such a member or to fill a vacancy in the membership of that Parliament, or

(*c*) is a member of a local authority (within the meaning of the Local Government Act 2001) or is, with the person's consent, nominated as a candidate for election as such a member.

(6) For the purpose of facilitating the performance of his or her functions under this Act, the Assessor has the powers set out in the *Schedule* and may exercise, for any particular purpose, such of those powers as he or she, in his or her sole discretion, determines are appropriate for that purpose.

(7) In the performance of his or her functions under this Act, the Assessor—

(*a*) is independent,

(*b*) shall act as an expert only, and

(*c*) shall act as expeditiously as possible consistent with fairness.

(8) The Assessor shall complete the performance of his or her functions within such period as the Minister specifies from time to time.

Expenses, etc., of Assessor and engagement of staff.

23.— (1) The Minister shall pay or reimburse such expenses of a person appointed as Assessor (including remuneration) as the Minister determines.

(2) The Assessor may, with the consent of the Minister, engage such staff or other persons as the Assessor considers necessary to assist him or her in the performance of his or her functions, and shall take reasonable measures to satisfy himself or herself that no person so engaged is affected by a material conflict of interest.

Submissions to Assessor.

24.— (1) The following persons and no others may make submissions to the Assessor in respect of the aggregate value of the transferred shares and extinguished rights:

(*a*) the Central Bank;

(*b*) the Governor;

(*c*) a person appointed by the Assessor under *subsection (4)(a)* to represent a class of persons whose shares were transferred to the Minister by *section 5* or whose rights have been extinguished under *section 10*;

(*d*) a person—

(i) whose shares were transferred to the Minister by *section 5*, or

(ii) whose rights have been extinguished under *section 10*,

but who is not in a class for which, under *subsection (4)(a)*, the Assessor has appointed a representative;

(*e*) the Minister, and, if the Minister so specifies, the National Treasury Management Agency;

(*f*) any other person from whom the Assessor invites a submission.

(2) The Assessor may invite a submission under *subsection (1)(f)* from a person whose shares were transferred to the Minister by *section 5* or whose rights have been extinguished under *section 10* even if the person is in a class of persons for which the Assessor has appointed a representative under *subsection (4)(a)*.

(3) A submission to the Assessor under *subsection (1)* shall be made in accordance with procedures determined by the Assessor under *subsection (4)*.

(4) Subject to any regulations made by the Minister under *section 36*, the Assessor shall determine, in his or her sole discretion, procedures for—

(*a*) the appointment of representatives of persons holding the same class or classes of shares or having substantially the same interests,

(*b*) the form and type of submissions to be made to the Assessor,

(*c*) the means by which confidential information should be protected from public disclosure, and

(*d*) performing any of the Assessor's functions.

Determination of fair and reasonable aggregate value.

25.— (1) The Assessor shall determine the fair and reasonable aggregate value of the transferred shares of each class and the extinguished rights as at 15 January 2009 for the purposes of the payment of fair and reasonable compensation for the acquisition of those shares and the extinction of those rights.

(2) The Assessor shall determine the value referred to in *subsection (1)*—

(*a*) on the basis of the true financial state of Anglo Irish Bank on 15 January 2009, taking into account the underlying market values of Anglo Irish Bank's assets and the extent of its actual, contingent and prospective liabilities at that date,

(*b*) having regard to the rights attaching to each class of transferred shares, and

(*c*) assuming that no financial assistance, investment or guarantee (other than the guarantee already provided under the Credit Institutions (Financial Support) Act 2008) would in future be provided to or made in Anglo Irish Bank, directly or indirectly, by the State.

(3) In determining the value referred to in *subsection (1)*, the Assessor shall have reference to—

(*a*) the quoted price of its shares at the close of business on 15 January 2009, and the movements in that price during such period as the Assessor considers appropriate,

(*b*) any relevant information about the business of Anglo Irish Bank as of 15 January 2009, whether publicly available or not,

(*c*) whether Anglo Irish Bank was, on 15 January 2009, unable or likely to become unable to continue as a going concern in the short, medium or long term, or that there was a material risk of its not being able to do so,

(*d*) the viability of its business model,

(*e*) its capital and solvency levels on 15 January 2009,

(*f*) its liquidity,

(*g*) the terms of the Credit Institutions (Financial Support) Scheme 2008 (S.I. No. 411 of 2008),

(*h*) any access that Anglo Irish Bank had or would be likely to have had to funding from the central banks of the euro area, including the Central Bank and the European Central Bank,

(*i*) any relevant evidence that the Assessor obtains in the performance of his or her functions,

(*j*) any submissions made to the Assessor, and

(*k*) any other relevant matter.

(4) The Assessor shall make the determination required by *subsection (1)* on the basis of the information and evidence available to him or her at the time he or she carries out his or her function.

(5) A conclusion drawn or finding made by the Assessor in making the determination required by *subsection (1)* does not amount to a finding of fact for any purpose other than the purposes of this Act.

(6) Nothing in this Act prevents the Assessor from determining that the amount of fair and reasonable compensation to be paid in relation to the transferred shares or the extinguished rights is nil.

(7) Whenever the Minister so requests, the Assessor shall report to the Minister as to his or her progress in making the determination required by this section.

Circulation of draft report for comment.

26.— (1) Before making a report to the Minister under *section 27*, the Assessor shall send a draft of his or her report to—

(*a*) each person who made a submission to the Assessor, and

(*b*) any other person, or each person in any class of persons, that the Minister specifies in writing,

inviting the person to make written submissions concerning the draft report and specifying a reasonable period in which to do so.

(2) The Assessor may omit from the draft report any evidence or material if including that evidence or material would disclose commercially sensitive information or would otherwise be contrary to the public interest.

(3) Before submitting the report to the Minister under *section 27*, the Assessor shall consider any submissions made in accordance with the Assessor's invitation under *subsection (1)* and shall revise the report as appropriate.

(4) A person to whom the Assessor sends a copy of a draft report under *subsection (1)* commits an offence if he or she discloses the report or its contents or any part of the report or its contents to any person other than for the purpose of obtaining professional advice.

(5) A person to whom a draft report of the Assessor is disclosed (whether under *subsection (4)* for the purposes of obtaining professional advice or otherwise) commits an offence if he or she discloses the report or its contents or any part of the report or its contents to any other person other than for the purpose of obtaining professional advice.

Report by Assessor.

27.— (1) When the Assessor has determined, in accordance with this Act, the aggregate value of the transferred shares and extinguished rights, the Assessor shall report to the Minister—

(*a*) the fair and reasonable aggregate value of the transferred shares and extinguished rights, and the consequent total amount payable as fair and reasonable compensation,

(*b*) the value attributable to each class of share or extinguished right that the Assessor considers gives rise to a valid claim for payment of compensation, and

(*c*) whether the Assessor considers that the payment of interest on the amounts payable is appropriate in the circumstances, and if so what the rate of interest should be.

(2) In the report under *subsection (1)* the Assessor shall set out—

(*a*) a summary of the evidence on which the Assessor relied in making his or her determination, and

(*b*) the Assessor's reasons for making the determination.

(3) In the report under *subsection (1)* the Assessor shall not identify any claimant for compensation.

(4) The Minister shall make such arrangements as are necessary for sufficient funds to be made available out of the Central Fund or the growing produce thereof to enable payments of compensation to be made in accordance with the Assessor's report under *subsection (1)*.

(5) The Minister shall cause the Assessor's report under *subsection (1)* to be published as soon as is practicable.

(6) The Minister may omit from the published report any evidence or material if including that evidence or material would disclose commercially sensitive information or would otherwise be contrary to the public interest.

Compensation Scheme.

28.— (1) Where the Assessor has reported to the Minister under *section 27* that compensation is payable to persons for transferred shares and extinguished rights, the Minister shall, within one month of being notified of the determination (or, in the event of any appeal or judicial review, within one month after the conclusion of the appeal or judicial review), make a scheme (in this section referred to as the "Anglo Irish Bank Corporation Compensation Scheme") providing procedures for—

(*a*) the making of a claim for compensation,

(*b*) if necessary, facilitating the calculation of the amount payable to each person concerned,

(*c*) the payment of those amounts to those persons, and

(*d*) if the Assessor considers that the payment of interest is appropriate in the circumstances, the payment of that interest.

(2) Without prejudice to the generality of *subsection (1)*, the Anglo Irish Bank Corporation Compensation Scheme may provide for the following:

(*a*) the correction by the Assessor of any clerical, computational or typographical error, or any error of a similar nature, contained in the Assessor's report under *section 27* or any determination of compensation payable to a person;

(*b*) how notice is to be given to persons as to whether their claims for compensation have been accepted or rejected.

Claims for compensation.

29.— (1) The Assessor shall compile a list, in such a form as the Assessor considers appropriate, of the persons entitled to compensation in relation to transferred shares and extinguished rights.

(2) The Assessor may compile the list referred to in *subsection (1)* from—

(*a*) the register of members of Anglo Irish Bank immediately before the commencement of this Act,

(*b*) any records kept by Anglo Irish Bank of options or rights of the kind referred to in *section 10(1)(a)* and *(b)*, and

(*c*) any other record that the Assessor reasonably believes to be relevant and reliable.

(3) The Assessor may require a person claiming compensation to provide evidence, in such form as the Assessor requires, in support of the claim. If the Assessor requires evidence in support of such a claim, he or she is not obliged to consider the claim if no evidence, or incomplete or insufficient evidence, is provided.

Amount payable as compensation.

30.— (1) The value for the purposes of compensation of a transferred share of a particular class is to be determined by—

(*a*) apportioning the fair and reasonable aggregate value of the transferred shares determined under *section 25* between classes of shares, and

(*b*) dividing the value determined under *paragraph (a)* for a class of shares by the number of shares of that class actually issued on 15 January 2009.

(2) In determining the compensation (if any) payable in respect of a class of transferred shares, the Assessor shall have regard to the rights attaching to shares of that class.

(3) Subject to *subsection (4)*, the value for the purposes of compensation of an extinguished right is to be taken as the proportion of the value of a transferred share of the appropriate class that the Assessor considers reasonable in the circumstances.

(4) The value of an extinguished right that is an option or right to acquire a share of a particular class is to be taken to be nil if the true value of a share of that class in Anglo Irish Bank (assessed on a fully diluted basis, as if all options and other rights to acquire shares of that class had been taken up or exercised) on 15 January 2009 was less than the value at which the option or right was exercisable.

Review of determination of compensation, etc.

31.— (1) An appeal lies to the Irish Financial Services Appeals Tribunal (in this section called "the Tribunal") against—

(*a*) the Assessor's determination under *section 25*,

(*b*) the Assessor's rejection of a person's claim for compensation, or

(*c*) the Assessor's determination of the sum that a person is entitled to as compensation.

(2) This section applies to the Minister in the same manner as it applies to a person who has or claims a right to compensation.

(3) The Assessor is to be the respondent to an appeal under *subsection (1)*.

(4) On hearing an appeal under *subsection (1)*, the Tribunal may substitute its own determination or confirm, annul or vary the determination or rejection appealed from and may make any other consequential order.

(5) The Tribunal shall determine an appeal under *subsection (1)* as expeditiously as possible consistent with fairness and on the basis of the material that was before the Assessor unless the Tribunal is of the opinion that a further submission or submissions should be sought.

(6) In deciding, for the purposes of an appeal under *subsection (1)(a)*, whether the Assessor's determination should be confirmed, annulled or varied, the test to be applied by the Tribunal is whether the appellant has established, as a matter of probability, taking into account the degree of expertise and specialist knowledge possessed by the Assessor and taking the process as a whole, that the determination was vitiated by a serious and significant error or a series of such errors.

(7) *Section 25* applies to the Tribunal in making its decision in an appeal under *subsection (1)(a)* to the same extent as it did to the Assessor in making his or her determination under that section.

(8) The provisions (except subsections (1) and (4) of section 57L) of Chapter 3 of Part VIIA (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003) of the Central Bank Act 1942 apply to an appeal under this section, except that references in that Chapter to the Regulatory Authority are to be read as references to the Assessor.

(9) For the purposes of determining an appeal under this section, the Tribunal may refer a question of law to the High Court in accordance with section 57AJ (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003) of the Central Bank Act 1942.

(10) If the Tribunal is satisfied, on examining the documents in relation to an appeal under *subsection (1)*, that the appeal raises no issue that the Tribunal has not already determined in connection with another such appeal, it may—

(*a*) strike out the first-mentioned appeal, or

(*b*) determine it without a hearing.

(11) In addition, if the Tribunal is satisfied that a number of appeals before it raise substantially the same issues—

(*a*) it may select one of those appeals as representative of all, and

(*b*) it may treat its decision on that appeal as determining those issues, or some of them, in each of the other appeals.

(12) The Tribunal may dismiss an appeal at any stage if the Tribunal is of the opinion that it has been made in bad faith or is frivolous, vexatious or misconceived or relates to a trivial matter.

(13) The decision of the Tribunal on an appeal under this section (including a decision made under *subsection (10)* without a hearing and a decision that a decision on a particular appeal is to be taken, under *subsection (11)*, to determine an issue or issues in a number of appeals) is final.

Limitation of judicial review of the Assessor's determination.

32.— (1) Leave shall not be granted for judicial review of the Assessor's determination under *section 25* or any other decision in relation to compensation unless—

(*a*) either—

(i) the application for judicial review is made to the High Court within one month after the Assessor's report to the Minister, or the notice to the applicant of the decision, as the case may be, or

(ii) the Court is satisfied that—

(I) there are substantial reasons why the application was not made within that period, and

(II) it is just, in all the circumstances to grant leave, having regard to the interests of other affected persons, and

(*b*) the Court is satisfied that the application raises a substantial issue for the Court's determination.

(2) The Court may make such order on the hearing of the judicial review as it thinks fit, including an order remitting the matter back to the Assessor with such directions as the Court thinks appropriate or necessary.

(3) This section applies to the Minister in the same manner as it applies to a person who has or claims a right to compensation.

Expenses, etc., of Minister.

33.— (1) The expenses incurred by the Minister in the administration of this Act shall be paid out of money provided by the Oireachtas and shall be repaid to the Minister from the funds of Anglo Irish Bank.

(2) The expenses incurred in respect of the Assessor by the Minister, and any other expenses or expenditure incurred by the Minister under this Act, shall be paid from the funds of Anglo Irish Bank or, if that is not possible in the circumstances and the Minister considers it appropriate, out of the Central Fund or the growing produce thereof.

Minister may issue securities, etc.

34.— For the purposes of this Act and to enable the Minister to provide funds for Anglo Irish Bank's continued operations, the Minister may, whenever and so often as he or she thinks fit, create and issue securities—

(*a*) bearing interest at such rate as he or she thinks fit, or no interest,

(*b*) for such cash or non-cash consideration or deferred consideration as he or she thinks fit, and

(*c*) subject to such terms and conditions as to repayment, repurchase, cancellation and redemption or any other matter as he or she thinks fit.

Offences under this Act.

35.— A person guilty of an offence under this Act is liable—

(*a*) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 months or both, or

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

Regulations — facilitation of performance of functions.

36.— (1) The Minister may make regulations for the purpose of facilitating the performance by the Assessor or the Minister or the Minister's nominee of his or her functions under this Act.

(2) Without prejudice to the generality of *subsection (1)*, the Minister may in particular make provision for the procedures to be used to make submissions to the Assessor, including, where the Assessor considers that a class of persons rather than a single person is concerned with a particular issue and the issue can be properly dealt with by hearing a single person as a representative of the class, procedures for appointing a person to represent the class.

(3) Regulations made by the Minister under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(4) Regulations made under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling them is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly but without prejudice to the validity of anything previously done under the regulations.

Annotations

Editorial Notes:

E3 Power pursuant to section exercised (8.02.2019) by *Anglo Irish Bank Corporation Act 2009 (Section 36) Regulations 2019* (S.I. No. 35 of 2019), in effect as per reg. 1(2).

Regulations — general implementation of this Act.

37.— (1) The Minister may, in respect of any difficulty that arises in the operation of this Act, make regulations to do anything that appears necessary or expedient for bringing this Act into operation.

(2) Regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Where the Minister proposes to make regulations under this section—

(*a*) he or she shall, before doing so, consult with any other Minister of the Government that the Minister considers appropriate having regard to the functions of that other Minister of the Government in relation to the proposed regulations,

(*b*) he or she shall cause a draft of the proposed regulations to be laid before each House of the Oireachtas, and

(*c*) he or she shall not make the regulations unless and until a resolution approving of the draft has been passed by each such House.

Amendment of other Acts.

38.— (1) Section 54 of the Finance Act 1970 is amended by inserting the following after subsection (7C) (inserted by the Credit Institutions (Financial Support) Act 2008):

"(7D) The Minister for Finance—

(*a*) may engage in such transactions of a normal banking nature with any person as he or she considers appropriate—

(i) in connection with the performance of his or her functions under the *Anglo Irish Bank Corporation Act 2009*, and

(ii) for the purpose of the better management of any indebtedness incurred by the Minister under that Act,

and

(*b*) may for the purpose of those transactions issue such funds from the Exchequer as he or she considers appropriate.

The expenses and other costs incurred by the Minister for Finance in connection with or arising out of those transactions shall be charged on the Central Fund or the growing produce thereof.".

(2) The First Schedule to the National Treasury Management Agency Act 1990 is amended as follows:

(*a*) by substituting "under the following enactments:" for "under—";

(*b*) by renumbering the paragraphs numbered (*gg*) to (*ggggg*) as paragraphs (*ga*) to (*gd*) respectively;

(*c*) by inserting after paragraph (*gd*) (inserted by the Credit Institutions (Financial Support) Act 2008 and renumbered by paragraph (*b*)):

"(*ge*) section 54(7D) (inserted by the *Anglo Irish Bank Corporation Act 2009*) of the Finance Act 1970,";

(*d*) by deleting "and" after paragraph (*r*);

(*e*) by inserting after paragraph (*s*) (inserted by the Credit Institutions (Financial Support) Act 2008):

"(*t*) *subsections (3)* and *(4)* of *section 3,* and *section 34,* of the *Anglo Irish Bank Corporation Act 2009*".

(3) Schedule 2 (inserted by the Central Bank and Financial Services Authority of Ireland Act 2003) to the Central Bank Act 1942 is amended by inserting the following in Part 1 after the item relating to the Consumer Protection Act 2007:

"

Anglo Irish Bank Corporation Act 2009	The whole Act, other than *section 2*

".

Short title.

39.— This Act may be cited as the Anglo Irish Bank Corporation Act 2009.

Section 22(6).

SCHEDULE

Powers to Require Persons to Give Evidence or Produce Documents

Assessor may require persons to give evidence or produce documents.

1. (1) If the Assessor believes on reasonable grounds that a person may be able to give evidence, or to produce a document, that relates to a matter concerning the performance or fulfilment of any of the Assessor's functions or objectives, he or she may serve on the person a notice requiring the person—

(*a*) to appear before the Assessor to give evidence about the matter, or

(*b*) to produce the document for examination.

(2) The notice shall—

(*a*) specify the matter to which the evidence relates, or specify or describe the document to be produced, as the case requires, and

(*b*) in the case of a notice to appear before the Assessor to give evidence—

(i) specify the date, time and place at which the person is required to appear before the Assessor, and

(ii) state whether and to what extent the evidence is to be given orally or on affidavit.

(3) The notice may require the person concerned to appear before a specified member of the Assessor's staff and, if it does so, a reference in this Schedule to the Assessor is to be read as including the staff member.

Offence of failing to appear before Assessor.

2. (1) A person commits an offence if, having been required to appear before the Assessor in compliance with a requirement made under *paragraph 1*, the person fails to comply with the requirement, and has not been excused, or released from further attendance, by the Assessor.

(2) *Subparagraph (1)* does not apply if the person has a reasonable excuse.

Offence of failing to produce document.

3. (1) A person commits an offence if, having been required to produce a document to the Assessor in compliance with a requirement under *paragraph 1*, he or she fails to comply with the requirement and has not been excused by the Assessor.

(2) *Subparagraph (1)* does not apply if—

(*a*) the person does not have the document and cannot by any reasonable effort obtain it; or

(*b*) the person could not be compelled to produce it in a court of law.

Conduct of proceedings under this Schedule.

4. (1) The Assessor may require a person who appears before the Assessor in compliance with a requirement made under *paragraph 1* to swear an oath.

(2) The Assessor may administer an oath for the purposes of this paragraph.

(3) The Assessor may permit a person giving oral evidence to be cross-examined by a person nominated by the Assessor under such procedures as the Assessor may determine.

Proceedings normally to be in private.

5. (1) Except as provided by this paragraph, evidence to be given, or a document to be produced, to the Assessor by a person who appears before him or her in compliance with a requirement made under *paragraph 1* is to be given or produced in private.

(2) If a person who appears before the Assessor in compliance with a requirement made under *paragraph 1* requests that the matter be dealt with in public, the Assessor shall comply with the request unless the matter raises issues that in the Assessor's opinion should be dealt with in private.

(3) If the Assessor is satisfied that it is desirable in the public interest that the evidence to be given should be given, or the document to be produced should be produced, in public, the Assessor may direct accordingly.

(4) If the evidence is to be given, or the document is to be produced, in private, the Assessor may do either or both of the following:

(*a*) give directions as to the persons (other than the Assessor or the Assessor's staff) who may be present during the proceeding;

(*b*) give directions preventing or restricting the publication of the whole or any part of the evidence or of matters contained in the document.

(5) If the evidence is to be given, or the document is to be produced, in private, a person (other than the person required to appear before the Assessor, the Assessor or a member of the Assessor's staff) may be present only if entitled to be present because of a direction given under *subparagraph (4)(a)*.

(6) A person who contravenes a direction of the Assessor under *subparagraph (4)(b)* commits an offence.

Offence of refusing to be sworn or answer question.

6. (1) A person appearing before the Assessor in compliance with a requirement made under *paragraph 1* commits an offence if the person—

(*a*) refuses or fails to swear an oath on being required to do so by the Assessor, or

(*b*) refuses or fails to give evidence in compliance with a requirement made under *paragraph 1*, or

(*c*) refuses or fails to answer a question put to the person by the Assessor or in cross-examination with the Assessor's permission.

(2) *Subparagraph (1)* does not apply if the person has a reasonable excuse.

(3) It is a reasonable excuse for the purposes of *subparagraph (2)* for a person to refuse or fail to answer a question that the answer might tend to incriminate the person.

(4) *Subparagraph (3)* does not limit what is a reasonable excuse for the purposes of *subparagraph (2)*.

Protection, etc., of persons appearing before Assessor.

7. Subject to this *Schedule*, a person who appears before the Assessor in compliance with a requirement made under *paragraph 1* has the same protection and privileges and is, in addition to the offences under this *Schedule*, subject to the same liabilities as a witness in proceedings in the High Court.

Payment of allowances and expenses to persons who appear before Assessor.

8. (1) A person who appears before the Assessor in compliance with a requirement under *paragraph 1* is entitled to be paid such allowances and travelling or other expenses as are payable to or in respect of a witness attending in civil proceedings before the High Court.

(2) All allowances and expenses payable under *subparagraph (1)* are payable by the Assessor.

Assessor's certificate to Court of failure to produce document, etc.

9. (1) If a person refuses or fails—

(*a*) to produce to the Assessor a document in accordance with a requirement by the Assessor,

(*b*) to attend before the Assessor when required so to do, or

(*c*) to answer a question put to him or her by the Assessor,

the Assessor may certify the refusal or failure to the Court.

(2) The Court may, after hearing any witnesses who may be produced against or on behalf of the person alleged to have so refused or failed and any statement which may be offered in defence, make any order or give any direction it thinks fit.

(3) Without prejudice to the generality of *subparagraph (2)*, the Court may—

(*a*) order the person concerned to attend or re-attend before the Assessor, or to produce a particular document or answer a particular question put to him or her by the Assessor, or

(*b*) order that the person concerned need not produce a particular document, or answer a particular question put to him or her by the Assessor.

Number 1 *of* 2009

ANGLO IRISH BANK CORPORATION ACT 2009

REVISED

Updated to 8 February 2019

About this Revised Act

This revision presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1977, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Central Bank Reform Act 2010* (23/2010)
- *Central Bank Act 1942* (22/1942)

All Acts up to and including *Local Government Act 2019* (1/2019), enacted 25 January 2019, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Anglo Irish Bank Corporation Act 2009 (Section 36) Regulations 2019* (S.I. No. 35 of 2019)

All statutory instruments up to and including *Anglo Irish Bank Corporation Act 2009 (Section 36) Regulations 2019* (S.I. No. 35 of 2019), made 7 February 2019, were considered in the preparation of this revision.