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



Number 13 *of* 2009

FINANCIAL SERVICES (DEPOSIT GUARANTEE SCHEME) ACT 2009

REVISED

Updated to 1 January 2019

This Revised Act is an administrative consolidation of the *Financial Services (Deposit Guarantee Scheme) 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 *Central Bank (National Claims Information Database) Act 2018* (42/2018), enacted 27 December 2018, and all statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019* (S.I. No. 1 of 2019), made 3 January 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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FINANCIAL SERVICES (DEPOSIT GUARANTEE SCHEME) ACT 2009

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ARRANGEMENT OF SECTIONS

Section

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3. Deposit protection account.

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5. Annual recalculation of amount of deposit.

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SCHEDULE

Amendments to Central Bank Act 1942

ACTS REFERRED TO

Building Societies Act 1989	1989,No. 17
Central Bank Act 1942	1942,No. 22
Central Bank Act 1971	1971, No. 24
Central Bank and Financial Services Authority of Ireland Act 2003	2003,No. 12
Credit Union Act 1997	1997,No. 15
European Communities (Amendment) Act 1993	1993, No. 25
Markets in Financial Instruments and Miscellaneous Provisions Act 2007	2007,No. 37

Number 13 *of* 2009

FINANCIAL SERVICES (DEPOSIT GUARANTEE SCHEME) ACT 2009

REVISED

Updated to 1 January 2019

AN ACT TO PROVIDE FOR THE MAKING OF REGULATIONS REGARDING THE AMOUNT PAYABLE TO A PERSON MAINTAINING ELIGIBLE DEPOSITS WITH A CREDIT INSTITUTION; TO PROVIDE FOR THE MAINTENANCE OF THE DEPOSIT PROTECTION ACCOUNT BY THE CENTRAL BANK AND FINANCIAL SERVICES AUTHORITY OF IRELAND; TO PROVIDE FOR THE MAINTENANCE BY CREDIT INSTITUTIONS OF DEPOSITS IN THE DEPOSIT PROTECTION ACCOUNT; TO PROVIDE FOR THE AMOUNT OF THE DEPOSIT AND ITS VARIATION; TO GIVE FURTHER EFFECT TO DIRECTIVE 94/19/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 30 MAY 1994 ON DEPOSIT GUARANTEE SCHEMES; TO AMEND THE CENTRAL BANK ACT 1942 AND TO PROVIDE FOR RELATED MATTERS.

[18*th June*, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.— In this Act—

F1**[**'authorised', in relation to a credit institution, means—

(a) in the case of a bank, a bank authorised, or deemed to be authorised, by the European Central Bank on application therefor under section 9 of the Central Bank Act 1971,

(b) in the case of a building society, a building society authorised, or deemed to be authorised, by the European Central Bank on application therefor under section 17 of the Building Societies Act 1989, or

(c) in the case of a credit union, a credit union registered within the meaning of the Credit Union Act 1997 or deemed to be so registered by virtue of section 5(3) of that Act;**]**

"Bank" means the F2**[**Central Bank of Ireland**]**;

F1**[** 'compensation event', in relation to a credit institution, means the occurrence of one or more of the following:

(a) the Bank has determined that, for the time being, the credit institution appears to be unable, for reasons directly related to its financial circumstances, to repay a deposit or deposits and to have no current prospect of being able to do so;

(b) a court in the State has appointed a liquidator or examiner to the credit institution;

(c) a judicial authority in the State has made, for reasons directly related to the credit institution's financial circumstances, any other ruling that has the effect of suspending depositors' ability to make claims against it;

'contributory fund' means the fund established by the Deposit Guarantee Regulations;

'covered deposits' means the part of eligible deposits that does not exceed the coverage level laid down in the Deposit Guarantee Regulations;**]**

"credit institution" means—

(*a*) a credit union,

(*b*) a building society incorporated under the Building Societies Act 1989 (No. 17 of 1989), or deemed by section 124(2) of that Act to be so incorporated, that is authorised to accept deposits under F3**[**section 17**]** of that Act, or

(*c*) a bank licensed under section 9 of the Central Bank Act 1971 (No. 24 of 1971);

"credit union" means a society registered as such under the Credit Union Act 1997 and includes a society deemed to be so registered by virtue of section 5(3) of that Act;

F3**[**'Deposit Guarantee Regulations' means the regulations made under the European Communities Act 1972 (No. 27 of 1972) to give effect to the Directive of 2014;**]**

F3**[** 'Directive' means, as the context requires, Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994[1] on deposit guarantee schemes or the Directive of 2014;

'Directive of 2014' means Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014[2] on deposit guarantee schemes;**]**

"eligible deposit" has the same meaning as in the Deposit Guarantee Regulations;

F1**[**'legacy fund' shall be construed in accordance with section 3(2);**]**

"Minister" means the Minister for Finance;

F4**[** 'relevant Member State institution' means an institution authorised in another Member State which has established in the State a branch which maintains a deposit in the deposit protection account pursuant to Regulation 26 of the Deposit Guarantee Regulations; **]**

Amount of coverage in respect of eligible deposits.

2.—F5**[**...**]**

Deposit protection account.

3.—F6**[**(1)**]** The account established and maintained by the Bank immediately before the coming into operation of this section and known as the deposit protection account shall continue to be maintained by the Bank and to be known by that name.

F6**[**(2) The Bank shall establish, hold and administer a fund, referred to in this Act as the 'legacy fund', consisting of funds transferred in accordance with *subsection (3)*.

(3) Where a credit institution maintains covered deposits, those funds relating to that credit institution standing to the credit of the deposit protection account to the

[1]OJ No. L135, 31.05.1994, p.1.

[2]OJ No. L173, 12.06.2015, p.149.

amount of 0.2 per cent of covered deposits at a date determined by the Bank shall be transferred by the Bank to the legacy fund.

(4) The balance of funds relating to a credit institution that remain in the deposit protection account on the date of the transfer referred to in *subsection (3)* shall be returned by the Bank to the credit institution concerned.

(5) The legacy fund shall cease to operate on the occurrence of one of the following events:

(a) when the amount of funds in it stand at zero as a result of compensation payments under *section 5A*;

(b) on the expiry of 3 years after the commencement of Part 3 of the Finance (Miscellaneous Provisions) Act 2015, in which case any remaining funds shall be returned by the Bank to the credit institutions concerned.

(6) Where a credit institution has not maintained sufficient funds to enable the transfer referred to in *subsection (3)* of 0.2 per cent of covered deposits to the legacy fund, the Bank shall direct that institution to pay into the deposit protection account sufficient funds to enable that transfer to take place.**]**

Amount to be maintained in deposit protection account.

F7**[4.** (1) Subject to *subsection (2)*, a credit institution which is required to contribute to the contributory fund shall not carry on the business of a credit institution unless 0.2 per cent of its covered deposits has been transferred, on its behalf, from the deposit protection account to the legacy fund on a date determined by the Bank under *section 3(3)*, other than where it is a credit institution authorised after the commencement of Part 3 of the Finance (Miscellaneous Provisions) Act 2015 and, in such case, *section 5A(4)* shall apply.

(2) Nothing in *subsection (1)* shall prevent a credit institution carrying on the business of a credit institution prior to the Bank making the transfer referred to in that subsection.**]**

Annual recalculation of amount of deposit.

5.— F8**[**...**]**

F9**[**Order of payments

5A. (1) On the occurrence of a compensation event giving rise to payments from the contributory fund, the payments shall be charged in the order set out in *subsection (2)*.

(2) The order referred to in *subsection (1)* shall be the following:

(a) firstly, the contributory fund;

(b) where a shortfall exists in the contributory fund and a positive balance exists in the legacy fund, the legacy fund;

(c) where a shortfall exists after recourse has been had to the legacy and contributory funds, financing from any other source permitted under the Deposit Guarantee Regulations.

(3) A charge on the legacy fund, under this section, shall be apportioned proportionately between credit institutions on the basis of the covered deposits held by those respective institutions.

(4) Each credit institution authorised after the commencement of Part 3 of the Finance (Miscellaneous Provisions) Act 2015, subject to the requirements of the deposit guarantee scheme shall, where—

(a) the legacy fund is operational,

(b) a compensation event has occurred, and

(c) the available financial means of the contributory fund are not sufficient to meet the payments in respect of the compensation event referred to in *paragraph (b)*,

contribute to the compensation event an amount equivalent to what it would have been charged had it maintained a balance in the legacy fund up to a maximum of 0.2 per cent of its covered deposits.

(5) The amount required to be held on deposit by a credit institution in the legacy fund shall be reduced on a yearly basis by the annual contribution of the institution concerned to the contributory fund.

(6) Where there is a charge upon the legacy fund which results in insufficient funds in respect of a particular credit institution remaining in that fund to fulfil its annual contribution to the contributory fund, any remaining funds shall be transferred to the contributory fund with any balance due for that year being charged to the credit institution concerned and that credit institution shall pay such charge on the written request of the Bank.**]**

F10**[**Credit institution wound up or ceased trading

5B. (1) Where any sum distributable under *section 3(5)(b)* relates to a deposit in the legacy fund by a credit institution which has ceased to carry on business as a credit institution or that has been wound up, then such a sum shall—

(a) accrue to the Bank unless, upon ceasing to carry on that business, that credit institution's business as a credit institution was amalgamated with or transferred to another credit institution in which case it shall accrue to that other credit institution, or

(b) where the provisions of this subsection also apply to the other credit institution referred to in *paragraph (a)* (being also a credit institution which has ceased to carry on business or that has been wound up), be traced through that other credit institution and any other credit institutions until it accrues to either the Bank or a credit institution maintaining a deposit in the deposit protection account at time of the accrual.

(2) Whenever any sum accrues to the Bank by virtue of *subsection (1)*, the Bank may, if it thinks proper to do so, waive, in whole or in part and in favour of such person it considers appropriate and upon such terms as it thinks proper having regard to all the circumstances of the case, the right of the Bank to such sum or such part thereof.**]**

Charges, etc., on deposit protection account.

F11**[6.** (1) Any charge purported to be created, other than by the Bank, on a deposit by a credit institution in the legacy fund is void.

(2) A deposit by a credit institution in the legacy fund shall not be subject to any form of execution in satisfaction of any claim, or any judgment, order or decree of any court in the State in favour of any creditor, otherwise than in accordance with the provisions of the Deposit Guarantee Regulations.**]**

Aggregate payment to deposit protection account by credit unions.

7.— F12**[**...**]**

Reimbursement from Central Fund of certain payments by Bank.

F13**[8.** (1) Where the Bank uses its own funds in respect of a payment from the contributory fund due to—

(a) the available financial means of the contributory fund not being sufficient in respect of the costs to the fund of a particular compensation event in the State,

(b) there being no funds standing to the credit of the credit institutions in the legacy fund, and

(c) the extraordinary ex-post contributions referred to in the Deposit Guarantee Regulations not being immediately accessible, including for reasons relating to the financial position of the credit institution, or credit institutions, concerned,

the amount of the payment shall be repaid to the Bank out of Central Fund or the growing produce thereof within 2 weeks.

(2) Any amount paid out of the Central Fund to the Bank under *subsection (1)* shall be repaid to the Central Fund from the contributory fund, with interest at the rate or rates that the Minister determines after consultation with the Bank.

(3) The Minister shall determine the period over which the payment required under *subsection (2)* is to be made, taking account of the amount owing and the ability of the contributory fund to make that repayment.**]**

F14**[** Power of Bank to make regulations for information to be kept relating to eligible deposits.

8A.— (1) Where the Bank considers it necessary to do so in the public interest the Bank may make regulations for securing that accurate information in relation to persons who maintain eligible deposits with credit institutions or relevant Member State institutions (in this section referred to as 'depositors') is available to them and to the Bank (in particular to enable the Bank to meet its obligations to make guarantee payments out of the deposit protection account to depositors in accordance with the Deposit Guarantee Regulations).

(2) The regulations may include provision—

(*a*) requiring credit institutions and relevant Member State institutions to keep such information as the Bank may prescribe in relation to depositors,

(*b*) about the form and manner in which, and the period for which, the prescribed information is to be kept, and

(*c*) for enabling the verification of the prescribed information. **]**

F15**[** Requirement to provide information to Bank.

8B.— The Bank may require a credit institution or relevant Member State institution to provide to the Bank at such time or times and in such manner as the Bank may require—

(*a*) any information kept by it in compliance with regulations under *section 8A*, and

(*b*) any information which the Bank may reasonably require to satisfy itself that requirements imposed by regulations under that section have been, and are being, complied with by the credit institution or relevant Member State institution. **]**

F16**[** Direction to credit institution.

8C.— (1) If the Bank considers that a credit institution or relevant Member State institution has failed, or is failing, to comply with any requirement imposed by regulations made under *section 8A*, the Bank may direct it to take specified steps to comply with the requirement.

(2) If the Bank considers that a credit institution or relevant Member State institution has failed, or is failing, to comply with a direction under *subsection (1)* the Bank may make an application to the High Court, and the High Court may, on such an application, make an order requiring it to comply with the direction. **]**

F17**[** Directions under *section 8C*: supplementary.

8D.— (1) The provisions of a direction under *section 8C* have effect from the date specified in the direction in relation to them.

(2) A direction under *section 8C* shall set out—

(*a*) all terms of the direction, including any date specified as the date by which, or period specified as the period within which, any provision of the direction is to be complied with, and

(*b*) any incidental, supplementary or consequential provision for securing that the direction is fully complied with.

(3) On an application under *section 8C(2)*, the High Court may make any such interim or interlocutory order as it considers appropriate.

(4) An order under *subsection (3)* may include an order to take such ancillary or incidental steps as the High Court may consider appropriate to give full effect to the order.**]**

F18**[**Compensation events

8E. (1) Any money recovered by the deposit protection account in relation to a compensation event which occurred on or before the coming into operation of the Deposit Guarantee Regulations shall be returned to the credit institutions on a basis proportionate to their contribution to the compensation event.

(2) Where any sum returnable under *subsection (1)* relates to a deposit in the deposit protection account by a credit institution which has ceased to carry on business as a credit institution or that has been wound up, then such a sum shall—

(a) accrue to the Bank unless, upon ceasing to carry on that business, that credit institution's business as a credit institution was amalgamated with or transferred to another credit institution in which case it shall accrue to that other credit institution, or

(b) where the provisions of this subsection also apply to the other credit institution referred to in *paragraph (a)* (also being a credit institution which has ceased to carry on business as a credit institution or that has been wound up), be traced through that other credit institution and any other credit institutions until it accrues to either the Bank or a credit institution maintaining a deposit in the deposit protection account at the time of the accrual.

(3) Whenever any sum accrues to the Bank by virtue of *subsection (2)*, the Bank may, if it thinks proper to do so, waive, in whole or in part and in favour of such person and upon such terms as it thinks proper having regard to all the circumstances of the case, the right of the Bank to such sum or such part thereof.**]**

Offence and penalty.

9.—F19**[**(1) A person who contravenes *section 4(1)*, fails to comply with a requirement under *section 8B* or a direction under *section 8C* or provides information under *section 8B* knowing it to be false or misleading commits an offence and is liable—**]**

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

(*b*) on conviction on indictment, to a fine not exceeding €250,000 or, at the discretion of the court, to imprisonment for a term not exceeding 3 years, or both.

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

F20**[**(3) Summary proceedings for an offence under this Act may be brought and prosecuted by the Bank.**]**

Regulations.

10.— (1) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under the regulation.

(2) F21**[**...**]**

(3) F21**[**...**]**

Amendments to Central Bank Act 1942.

11.— The Central Bank Act 1942 is amended as set out in the Schedule.

Short title and commencement.

12.— (1) This Act may be cited as the Financial Services (Deposit Guarantee Scheme) Act 2009.

(2) *Section 4* , in so far as it applies to credit unions, shall come into operation on such day as the Minister may appoint by order.

Section 11.

SCHEDULE

AMENDMENTS TO CENTRAL BANK ACT 1942

<table>
<tr><th>Item
(1)</th><th>Provision affected
(2)</th><th>Amendment
(3)</th></tr>
<tr><td>1</td><td>Section 33AK(5) (as amended by section 13 of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007)</td><td>(a)In paragraph (al), substitute “functions, or” for “functions.”.

(b) Insert the following after paragraph (al):

“(am) to a deposit guarantee scheme in another Member State of the European Communities (including a state that is a contracting party to the EEA Agreement (within the meaning given by the European Communities (Amendment) Act 1993)) established in accordance with Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit guarantee schemes.”.</td></tr>
<tr><td>2</td><td>Schedule 2 (inserted by section 31 of the Central Bank and Financial Services Authority of Ireland Act 2003)</td><td>In Part 2, by deleting the following:

“<table><tr><td>S.I. No. 168 of 1995</td><td>European Communities (Deposit Guarantee Schemes) Regulations 1995</td><td>The whole instrument</td></tr></table>”.</td></tr>
</table>

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FINANCIAL SERVICES (DEPOSIT GUARANTEE SCHEME) ACT 2009

REVISED

Updated to 1 January 2019

About this Revised Act

This Revised Act 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 not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. A list of legislative changes to any Act, and to statutory instruments from 1978, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.