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*Number 22 of 1942*

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**CENTRAL BANK ACT 1942**

**REVISED**

**Updated to 22 February 2013**

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This Revised Act is an administrative consolidation of the *Central Bank Act 1942*. 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 *Irish Bank Resolution Corporation Act 2013* (2/2013), enacted 7 February 2013, and all statutory instruments up to and including *European Communities (Statutory Audits) (Directive 2006/43/EC) (Amendment) Regulations 2013* (S.I. No. 67 of 2013), made 22 February 2013, 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](mailto:revisedacts@lawreform.ie).





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**Introduction**

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

**Related legislation**

**Central Bank Acts 1942 to 2012:** This Act is one of a group of Acts included in this collective citation (*Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 1(3)). The Acts in the group are:

- *Central Bank Act 1942* (22/1942)
- *Central Bank Act 1961* (8/1961)
- *Central Bank Act 1964* (3/1964)
- *Central Bank Act 1971* (24/1971)
- *Central Bank Act 1989* (16/1989), Part II
- *Central Bank Act 1997* (8/1997), other than ss. 3, 36 to 49, 60, 64 to 68, 78 to 83 and 85
- *Central Bank Act 1998* (2/1998)
- *Euro Changeover (Amounts) Act 2001* (16/2001), s. 5 and s. 9(4)
- *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003)
- *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004)
- *National Asset Management Agency Act 2009* (34/2009), s. 1(4), s. 232 and sch. 3 part 2
- *Central Bank Reform Act 2010* (23/2010)
- *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011)
- *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), ss. 36, 37, 48(2) and 56(3), Part 5 (in so far as it amends any of the *Central Bank Acts 1942 to 2011*), and Schedules 2 and 3 (in so far as they amend any of those Acts)

*Credit Institutions (Financial Support) Act 2008* (18/2008) deals with similar subject matter.

**Currency and Central Bank Acts 1927 to 1971:** This Act is one of a group of Acts included in this collective citation by (*Central Bank Act 1971*, s. 1(2)). The Acts in the group are:

Acts included or previously included in the collective citation are:

- *Currency Act 1927* (32/1927)
- *Currency (Amendment) Act 1930* (30/1930)
- *Central Bank Act 1942* (22/1942)
- *Central Bank Act 1961* (8/1961)

- *Central Bank Act 1964* (3/1964)
- *Central Bank Act 1971* (24/1971)

### **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](http://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. A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

### **Acts which affect or previously affected this revision**

- *Irish Bank Resolution Corporation Act 2013* (2/2013)
- *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012)
- *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011)
- *Credit Institutions (Stabilisation) Act 2010* (36/2010)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Central Bank Reform Act 2010* (23/2010)
- *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010)
- *National Asset Management Agency Act 2009* (34/2009)
- *Financial Services (Deposit Guarantee Scheme) Act 2009* (13/2009)
- *Anglo Irish Bank Corporation Act 2009* (1/2009)
- *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007)
- *Consumer Protection Act 2007* (19/2007)
- *Investment Funds, Companies and Miscellaneous Provisions Act 2006* (41/2006)
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- *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004)
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- *Trustee (Authorised Investments) Act 1958* (8/1958)
- *Coinage Act 1950* (32/1950)
- *Currency (Amendment) Act 1930* (30/1930)
- *Currency Act 1927* (32/1927)

All Acts up to and including *Irish Bank Resolution Corporation Act 2013* (2/2013), enacted 7 February 2013, were considered in the preparation of this revision.

### **Statutory instruments which affect or previously affected this revision**

- *Central Bank Act 1942 (Section 32E) Transparency Fee Regulations 2012* (S.I. No. 550 of 2012)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2012* (S.I. No. 506 of 2012)
- *Central Bank Act 1942 (Section 32D) Regulations 2012* (S.I. No. 350 of 2012)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2011* (S.I. No. 674 of 2011)
- *Central Bank Act 1942 (Section 32E) Prospectus Approval Fee Regulations 2011* (S.I. No. 632 of 2011)
- *Central Bank Act 1942 (Section 32D) Regulations 2011* (S.I. No. 478 of 2011)
- *European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011* (S.I. No. 352 of 2011)
- *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011)
- *European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2011* (S.I. No. 48 of 2011)
- *European Communities (Directive 2009/111/EC) Regulations 2010* (S.I. No. 627 of 2010)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2010* (S.I. No. 576 of 2010)
- *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2010* (S.I. No. 487 of 2010)
- *European Communities (Credit Rating Agencies) Regulations 2010* (S.I. No. 247 of 2010)
- *European Communities (Cross Border Payments) Regulations 2010* (S.I. No. 183 of 2010)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2009* (S.I. No. 500 of 2009)
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- *Credit Union Act 1997 (Section 85) Rules 2009* (S.I. No. 344 of 2009)
- *Central Bank Act 1942 (Sections 33j and 33k) Regulations 2009* (S.I. No. 300 of 2009)
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- *Central Bank Act 1942 (Section 33J) Regulations 2008* (S.I. No. 598 of 2008)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2008* (S.I. No. 576 of 2008)
- *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2008* (S.I. No. 297 of 2008)
- *Irish Financial Services Appeals Tribunal Rules 2008* (S.I. No. 224 of 2008)
- *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2008* (S.I. No. 125 of 2008)
- *Central Bank and Financial Services Authority of Ireland Superannuation Scheme 2008* (S.I. No. 99 of 2008)
- *European Communities (Markets in Financial Instruments) (Amendment) Regulations (No. 2) 2007* (S.I. No. 773 of 2007)
- *Consumer Credit Act 1995 (Section 2) (No. 4) Regulations 2007* (S.I. No. 751 of 2007)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2007* (S.I. No. 726 of 2007)
- *Consumer Credit Act 1995 (Section 2) (No. 4) Regulations 2007* (S.I. No. 690 of 2007)
- *European Communities (Markets in Financial Instruments) (Amendment) Regulations 2007* (S.I. No. 663 of 2007)
- *European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007* (S.I. No. 366 of 2007)
- *Central Bank Act 1942 (Section 33J and 33K) Regulations 2007* (S.I. No. 294 of 2007)
- *Consumer Credit Act 1995 (Section 2) (No. 3) Regulations 2007* (S.I. No. 139 of 2007)
- *Consumer Credit Act 1995 (Section 2) (No. 2) Regulations 2007* (S.I. No. 138 of 2007)
- *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2007* (S.I. No. 100 of 2007)
- *European Communities (Markets in Financial Instruments) Regulations 2007* (S.I. No. 60 of 2007)

- *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2006* (S.I. No. 687 of 2006)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2006* (S.I. No. 556 of 2006)
- *Central Bank Act 1942 (Section 33J and 33K)(Amendment) Regulations 2006* (S.I. No. 528 of 2006)
- *Central Bank Act 1942 (Sections 33J And 33K) Regulations 2006* (S.I. No. 388 of 2006)
- *European Communities (Reinsurance) Regulations 2006* (S.I. No. 380 of 2006)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 3) 2005* (S.I. No. 828 of 2005)
- *Consumer Credit Act 1995 (Section 2) (Amendment) Regulations 2005* (S.I. No. 372 of 2005)
- *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2005* (S.I. No. 371 of 2005)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No 2) 2005* (S.I. No. 330 of 2005)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2005* (S.I. No. 329 of 2005)
- *Central Bank Act 1942 (Section 33K) Regulations 2005* (S.I. No. 325 of 2005)
- *Prospectus (Directive 2003/71/Ec) Regulations 2005* (S.I. No. 324 of 2005)
- *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2005* (S.I. No. 273 of 2005)
- *Central Bank Act 1942 (Financial Services Ombudsman) Regulations 2005* (S.I. No. 191 of 2005)
- *Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005* (S.I. No. 190 of 2005)
- *European Communities (Insurance Mediation) Regulations 2005* (S.I. No. 13 of 2005)
- *Central Bank and Financial Services Authority of Ireland Act 2004 (Commencement) Order (No. 2) 2004* (S.I. No. 760 of 2004)
- *European Communities (Supplementary Supervision of Insurance Undertakings in an Insurance Group) (Amendment) Regulations 2004* (S.I. No. 731 of 2004)
- *European Communities (Consolidated Supervision of Credit Institutions) (Amendment) Regulations 2004* (S.I. No. 730 of 2004)
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- *Consumer Credit Act 1995 (Section 2) (No. 3) Regulations 2004* (S.I. No. 715 of 2004)
- *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2004* (S.I. No. 447 of 2004)
- *Consumer Credit Act 1995 (Section 2) (No. 2) Regulations 2004* (S.I. No. 414 of 2004)
- *European Communities (Reorganisation and Winding-Up of Credit Institutions) Regulations 2004* (S.I. No. 198 of 2004)
- *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2004* (S.I. No. 93 of 2004)
- *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) (No. 2) Regulations 2003* (S.I. No. 650 of 2003)
- *Central Bank Act 1942 (Schedule 2) (Amendment) Order 2003* (S.I. No. 371 of 2003)
- *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) Regulations 2003* (S.I. No. 161 of 2003)
- *European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992* (S.I. No. 396 of 1992)
- *European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992* (S.I. No. 395 of 1992)
- *Central Bank Act (Approval of Scheme of Northern Bank Limited and Northern Bank (Ireland) Limited) Order 1986* (S.I. No. 99 of 1986)
- *European Communities (Consolidated Supervision of Banks) Regulations 1985* (S.I. No. 302 of 1985)
- *European Communities (Licensing and Supervision of Banks) Regulations 1979* (S.I. No. 414 of 1979)
- *Central Bank Act (Approval of Scheme of the Royal Bank of Ireland Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 24 of 1972)
- *Central Bank Act (Approval of Scheme of Provincial Bank of Ireland Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 23 of 1972)

- *Central Bank Act (Approval of Scheme of the Munster and Leinster Bank Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 22 of 1972)
- *Central Bank Act (Approval of Scheme of the Hibernian Bank Limited and The Governor and Company of the Bank of Ireland) Order 1972* (S.I. No. 21 of 1972)
- *Central Bank Act (Approval of Scheme of the National Bank of Ireland Limited and The Governor and Company of the Bank of Ireland) Order 1972* (S.I. No. 20 of 1972)
- *Banker's Deposit (Permission For Reduced Deposit) Order 1942* (S.I. No. 542 of 1942)
- *Central Bank Act 1942 (Appointed Day) Order 1942* (S.I. No. 505 of 1942)
- *Bankers' Licences Regulations 1942* (S.I. No. 481 of 1942)

All statutory instruments up to and including *European Communities (Statutory Audits) (Directive 2006/43/EC) (Amendment) Regulations 2013* (S.I. No. 67 of 2013) were considered in the preparation of this revision.







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*Number 22 of 1942*

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**CENTRAL BANK ACT 1942**

**REVISED**

**Updated to 22 February 2013**

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|  |                |
|--|----------------|
| Currency (Amendment) Act, 1930   | No. 30 of 1930 |
| Currency Act, 1927   | No. 32 of 1927 |
| Ministers and Secretaries Act, 1924                                      | No. 16 of 1924 |
| Industrial and Commercial Property (Protection)<br>(Amendment) Act, 1929 | No. 13 of 1929 |
| Finance Act, 1932  | No. 20 of 1932 |
| Finance Act, 1937  | No. 18 of 1937 |
| Coinage Act, 1926  | No. 14 of 1926 |
| Industrial and Commercial Property (Protection)<br>Act, 1927             | No. 16 of 1927 |



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Number 22 of 1942

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**CENTRAL BANK ACT 1942**

**REVISED**

**Updated to 22 February 2013**

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AN ACT TO ESTABLISH A BANK TO BE THE PRINCIPAL CURRENCY AUTHORITY IN THE STATE, TO DISSOLVE THE CURRENCY COMMISSION AND TRANSFER ITS POWERS AND DUTIES (WITH CERTAIN MODIFICATIONS) TO THE SAID BANK, TO CONFER ON THE SAID BANK DIVERS OTHER POWERS AND DUTIES, AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH BANKING, CURRENCY, COINAGE, AND THE MATTERS AFORESAID AND IN PARTICULAR FOR THE GRADUAL EXTINCTION OF CONSOLIDATED BANK NOTES. [4th November, 1942.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**Annotations**

**Modifications etc. (not altering text):**

- C1** Act included in collective citation and construction (19.12.2012) by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 1(3), S.I. No. 557 of 2012.

**Short title, construction and collective citation.**

1.— ...

(3) The Central Bank Acts 1942 to 2011, sections 36, 37, 48 (2) and 56(3), Part 5 (in so far as it amends any of those Acts), and Schedules 2 and 3 (in so far as they amend any of those Acts) may be cited together as the Central Bank Acts 1942 to 2012.

Acts included or previously included in the collective citation and construction:

- *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012) (19.12.2012) by s. 1(3), S.I. No. 557 of 2011 (citation only).
- *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011) (28.10.2011) by s. 1(2), S.I. No. 548 of 2011 (citation only).
- *Central Bank Reform Act 2010* (23/2010) (1.10.2010) by s. 1(2), S.I. No. 469 of 2010 (citation only).
- *National Asset Management Agency Act 2009* (34/2009), ss. 1(4), 232 and sch. 3, part 2 (21.12.2009) by s. 1(4), S.I. No. 545 of 2009 (citation only).
- *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004) (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 1(4), S.I. No. 545 of 2009 (citation only).
- *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003) (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 1(4), S.I. No. 545 of 2009 (citation only).

- *Euro Changeover (Amounts) Act 2001* (16/2001), ss. 5 and 9(4) (25.06.2001) by s. 9(4), commenced on enactment.
- *Central Bank Act 1998* (2/1998) (23.05.1998) by s. 1(2), S.I. No. 338 of 2002.
- *Central Bank Act 1997* (8/1997), other than ss. 3, 36 to 49, 60, 64 to 68, 78 to 83 and 85, (9.04.1997) by s. 1(3), S.I. No. 150 of 1997.
- *Central Bank Act 1989* (16/1989), Part II (12.07.1989) by s. 6, S.I. No. 176 of 1989.
- *Central Bank Act 1971* (24/1971) (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 6, S.I. No. 176 of 1989.
- *Central Bank Act 1964* (3/1964) (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 6, S.I. No. 176 of 1989.
- *Central Bank Act 1961* (8/1961) (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 6, S.I. No. 176 of 1989.
- *Central Bank Act 1942* (22/1942) (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 6, S.I. No. 176 of 1989.

- C2** Application of collectively cited *Central Bank Acts 1942 to 2011* restricted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 69(6)(a), S.I. No. 548 of 2011.

**Effect of appointment of special manager.**

69.— ...

(6) A special management order has effect notwithstanding anything in—

(a) the Companies Acts, the Building Societies Act 1989, the Credit Union Act 1997 or the Central Bank Acts 1942 to 2011,

...

except to any extent to which the special management order expressly provides otherwise.

- C3** Construction of references in Act extended in certain circumstances (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 90(1), S.I. No. 548 of 2011.

**Application of this Part to bodies incorporated outside State.**

90.—(1) In the case of the winding-up of an authorised credit institution, or a body that was formerly an authorised credit institution, that is a company incorporated outside the State, references in the Central Bank Acts 1942 to 2011 to—

(a) the winding-up of an authorised credit institution or a body that was formerly an authorised credit institution, or

(b) any provision of the Companies Acts which relates to winding-up,

shall be construed as references to the corresponding provisions in the law of the foreign jurisdiction concerned if the context so admits and the circumstances so require.

(2) For the purposes of a winding-up referred to in subsection (1), the Court may order that the Central Bank Acts 1942 to 2011 apply, if necessary, with such modifications as the Court orders.

- C4** Application of collectively cited *Central Bank Acts* (designated as relevant applicable enactments for purpose of regulations) restricted (4.02.2011) by *European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2011* (S.I. No. 48 of 2011), regs. 5 and 12.

*What law applies to credit institution in respect of which reorganisation measure is imposed*

5. —(1) The relevant applicable enactment applies to and in relation to a reorganisation measure imposed, or to be imposed, in respect of an authorised credit institution (including its branches in other Member States) except as otherwise expressly provided by these Regulations.

(2) The provisions of a relevant applicable enactment forming part of a reorganisation measure or applying, implementing or giving effect to a reorganisation measure apply in relation to the credit institution concerned and shall be fully effective in accordance with that enactment as provided by the Directive.

(3) Provisions of this Regulation applying, implementing or giving effect to a reorganisation measure apply in relation to the credit institution concerned and shall be fully effective in accordance with those provisions as provided by the Directive.

(4) A reorganisation measure imposed by a competent authority of another Member State in respect of a credit institution authorised in that State (including any branch of the institution in the State) is to be recognised in the State as soon as the measure takes effect in that other State. This paragraph applies even if, had the particular matter been dealt with under the relevant applicable enactment, the measure would not be provided for, or would be provided for subject to the fulfilment of specified conditions that would not have been fulfilled in the particular case.

...

*What law applies to winding up of credit institution*

**12.** —(1) The relevant applicable enactment applies to proceedings to wind up an authorised credit institution, except in so far as these Regulations otherwise provide.

(2) The laws and administrative provisions applicable in another Member State apply to proceedings to wind up a credit institution authorised in that other State.

- C5** Powers under collectively cited *Central Bank Acts 1942 to 2001* (included in the supervisory enactments) affected (22.03.2002) by *Asset Covered Securities Act 2001* (47/2001), s. 25, S.I. No. 94 of 2002, as amended (31.08.2007) by *Asset Covered Securities (Amendment) Act 2007* (13/2007), s. 16, S.I. No. 591 of 2007.

**Provisions of certain other Acts not affected.**

**25.**—If the registration of an institution is revoked under this Part and the institution is—

(a) the holder of a licence issued under the Central Bank Act, 1971,

[(b) a trustee savings bank, or

(c) a building society,]

[(d) ...]

the power of the Authority to exercise in relation to the institution any power conferred on it by the supervisory enactments is affected only in so far as the exercise of that power would be inconsistent with this Act.

- C6** Application of collectively cited *Central Bank Acts 1942 to 1997* restricted (1.10.1997) by *Credit Union Act 1997* (15/1997), s. 184(a), S.I. No. 403 of 1997.

**Certain enactments not to apply to credit unions etc.**

**184.**—The following enactments, namely—

(a) the Central Bank Acts, 1942 to 1997,

...

shall not apply to a credit union or to a body the members of which are credit unions and the principal objects of which are the promotion of the credit union movement and the provision of services to credit unions.

- C7** Application of collectively cited *Central Bank Acts 1942 to 1997* extended (9.04.1997) by *Central Bank 1997* (8/1997), ss. 31 and 53, S.I. No. 150 of 1997; s. 53 as amended (1.0.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 28, S.I. No. 455 of 2004.

**Application of section 17 of Act of 1971 to bureaux de change.**

**31.**—Without prejudice to section 30 of this Act, section 17 of the Act of 1971 shall apply as if every person authorised by the Bank to carry on bureau de change business were the holder of a licence for the purposes of the Central Bank Acts, 1942 to 1997.

...

**Application of section 47 of Act of 1989.**

**53.**— Section 47 of the Act of 1989 shall apply—



- (a) to every financial institution to which Chapter VII of Part II of the Act of 1989 relates,
  - (b) to every exchange to which Chapter VIII of Part II of the Act of 1989 relates and every member of that exchange, and
  - (c) to every person authorised by the Bank to carry on money broking business,
- as if each such institution, exchange, member or person so authorised were the holder of a licence for the purposes of the Central Bank Acts [...].

- C8** Application of collectively cited *Central Bank Acts 1942 to 1997* restricted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 84(5), S.I. No. 150 of 1997, as amended (1.0.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004, s. 32, S.I. No. 455 of 2004.

**Representative offices.**

**84.—** ...

(5) Notwithstanding anything contained in the *Central Bank Acts* [...], a representative office may use in its name or title the words “bank”, “banker” or “banking” or any variant or derivative thereof, subject to such terms or conditions as may be specified by the Bank.

...

- C9** Provision for summary prosecution and liability for offences under collectively cited *Central Bank Acts 1942 to 1989* extended (12.07.1989) by *Central Bank Act 1989* (16/1989), ss. 10 and 11, S.I. No. 176 of 1989.

**Prosecution of offences by Bank.**

**10.—**An offence under the Central Bank Acts, 1942 to 1989, which is being tried summarily may be prosecuted by the Bank and a statement made by the person conducting such prosecution that the prosecution has been commenced with the authority of the Bank shall be sufficient evidence that the prosecution was so commenced.

**Offences in relation to certain bodies.**

**11.—**Where an offence under the Central Bank Acts, 1942 to 1989, is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been so committed with the consent or approval of, or to have been facilitated by any wilful neglect on the part of, another person (being a director, manager, secretary, member of any committee of management or other controlling authority of such body or official of such body) that other person shall, as well as the body corporate or the person so purporting to act, be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

- C10** Construction of references in collectively cited *Central Bank Acts 1942 to 1989* extended in certain circumstances (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 51, S.I. No. 176 of 1989. This provision is construed (1.01.1993) by *European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992* (S.I. No. 395 of 1992), reg. 38.

**Construing of references to winding up, etc.**

**51.—**Where the context so admits and the circumstances may so require, references in the *Central Bank Acts, 1942 to 1989*, to the winding up of a holder or former holder of a licence or to any provision of the Companies Acts, 1963 to 1986, which relates to winding up shall, where a holder or former holder of a licence is a company incorporated outside the State or is an institution to which section 9(1A) (as amended by this Part) of the Act of 1971 relates, be construed as references to the corresponding provisions in the law of the foreign jurisdiction concerned and, accordingly, the provisions of the *Central Bank Acts, 1942 to 1989*, shall apply to the winding up or dissolution concerned and, where necessary, with such modifications as the Court may order.

- C11** Application of collectively cited *Currency and Central Bank Acts 1927 to 1971* extended (13.07.1983) by *Postal and Telecommunications Services Act 1983* (24/1983), s. 67(2)(b), commenced on enactment but subject to vesting order made (1.01.1984) by S.I. No. 407 of 1983.

**Provision of banking services.**

**67.—**(1) The company may, after consultation with the Minister and as authorised by order of the Minister for Finance (made after consultation with the Central Bank), provide banking services, including the service commonly known as the Giro System and also including the lending of money.

(2) Any such order may—

(a) specify the services which the company may provide,

(b) contain such other provisions in relation thereto, including provisions concerning the application of the Currency and Central Bank Acts, 1927 to 1971, and any other enactment, as the Minister for Finance, after consultation with the Minister, the company, the Central Bank and any other appropriate Minister, considers necessary or desirable.

...

**C12** Act included in collective citation and construction (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 1(2), S.I. No. 228 of 1971.

**Short title, collective citation, construction and commencement.**

**1.—** ...

(2) The Currency and Central Bank Acts, 1927 to 1964, and this Act shall be construed together as one Act and may be cited together as the Currency and Central Bank Acts, 1927 to 1971.

...

Acts included or previously included in the collective citation:

- *Central Bank Act 1971* (24/1971) (1.09.1971) by s. 1(2), S.I. No. 228 of 1971.
- *Central Bank Act 1964* (3/1964) (3.03.1964) by s. 1(4), commenced on enactment (citation only).
- *Central Bank Act 1961* (8/1961) (30.03.1961) by s. 4(2), commenced on enactment.
- *Central Bank Act 1942* (22/1942) (4.11.1942) by s. 1(2) and (3), commenced on enactment.
- *Currency (Amendment) Act 1930* (30/1930) (16.12.1930) by s. 6(2), commenced on enactment.
- *Currency Act 1927* (32/1927) (16.12.1930) by *Currency (Amendment) Act 1930* (30/1930), s. 6(2), commenced on enactment.

**Editorial Notes:**

- E1** Bank may have regard to statements made under *Central Bank Reform Act 2010* (23/2010), s. 37(5) for the purposes of the exercise of its powers and the performance of its functions under the collectively cited *Central Bank Acts 1942 to 2010* as provided (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 37, S.I. No. 469 of 2010.
- E2** Previous affecting provision: application of collectively cited *Central Bank Acts* (designated as relevant applicable enactments for purpose of regulations) restricted (5.05.2004) by *European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2004* (S.I. No. 198 of 2004), regs. 2(2)(b), 5, 12(1), 17(1) and (3); revoked (4.02.2011) by *European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2011* (S.I. No. 48 of 2011), reg. 41.
- E3** Previous affecting provision: application of collectively cited *Central Bank Acts 1942 to 1989* restricted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 18(1), S.I. No. 176 of 1989; repealed (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 35 and sch. 1 part 9, S.I. No. 160 of 2003.
- E4** Previous affecting provision: application of Act restricted (1.03.1967) by *Credit Union Act 1966* (19/1966), s. 29, S.I. No. 29 of 1967; repealed (1.10.1997) by *Credit Union Act 1997* (15/1997), s. 5(1)(a), S.I. No. 403 of 1997.

## PRELIMINARY AND GENERAL.

Short title,  
collective cita-  
tion, and  
construction.

- 1.—(1) This Act may be cited as the Central Bank Act, 1942.
- (2) The Currency Acts, 1927 and 1930, and this Act may be cited together as the Currency and Central Bank Acts, 1927 to 1942.
- (3) This Act shall be construed as one with the Currency Acts, 1927 and 1930.
- (4) The expression “this Act” wherever it occurs in the Currency Act shall be construed and have effect as including the Currency (Amendment) Act, 1930 (No. 30 of 1930), and this present Act.

F1[Interpreta-  
tion.

- 2.—(1) In this Act, unless the context otherwise requires—
- F2[‘Agency’ means the National Consumer Agency established by the *Consumer Protection Act 2007*;]
- ‘Appeals Tribunal’ means the Irish Financial Services Appeals Tribunal established by section 57C;
- F3[...]
- F4[‘appointed member’ or ‘appointed member of the Commission’ means a member of the Commission referred to in section 18CA(1)(b);]
- F5[‘associated entity’ in relation to a financial service provider, means—
- (a) a holding company of the financial service provider, or
  - (b) a subsidiary company of the financial service provider, or
  - (c) a company that is a subsidiary of a body corporate, if the financial service provider is also a subsidiary of the body, but neither company is a subsidiary of the other, or
  - (d) if a financial service provider is a company, any other body corporate that is not a subsidiary of the company but in respect of which the company is beneficially entitled to more than 20 per cent of the nominal value of either—
    - (i) the allotted share capital, or
    - (ii) the shares carrying voting rights (other than voting rights which arise only in specified circumstances) in that other body corporate,
- or
- (e) a partnership or joint venture in which the financial service provider has a financial interest;]

‘approved stock exchange’ means a stock exchange approved under section 9 of the Stock Exchange Act 1995;

F6[‘Bank ’ means the Central Bank of Ireland;]

F7[...]

‘Central Bank Acts’ means the Central Bank Acts 1942 to 1998 and includes any later Act that is to be construed as one with those or any of those Acts;

F8[‘Commission ’ means the Central Bank Commission;]

‘consolidated bank note’ has the same meaning as in the Currency Act 1927;

F9[...]

F9[...]

‘credit union’ has the meaning given by the Credit Union Act 1997;

‘Currency Act 1927’ means that Act as adapted in consequence of the Constitution;

F5[‘Deputy Financial Services Ombudsman’ means the person holding office under section 57BL;]

F10[‘designated enactments ’ means, subject to subsection (2A), the enactments specified in Part 1 of Schedule 2;]

‘designated statutory instruments’ means the statutory instruments specified in Part 2 of Schedule 2;

F11[...]

F5[‘EEA country’ means a country that is a member of the European Economic Area;]

‘employee’, in relation to the Bank, includes the F12[Secretary of the Bank];

‘enactment’ includes any instrument made under an enactment;

‘ESCB Statute’ means the Statute of the European System of Central Banks and of the European Central Bank as set out in Protocol (No. 3) (annexed by the Treaty on European Union done at Maastricht on February 1992) to the Rome Treaty;

F13[‘*ex-officio* member’ or ‘*ex-officio* member of the Commission’ means a member of the Commission referred to in section 18CA(1)(a);]

‘financial futures and options exchange’ has the meaning given by section 97 of the Central Bank Act 1989;

‘financial services’ include financial products;

F5[‘Financial Services Ombudsman’ means the person holding office under section 57BJ or acting as Financial Services Ombudsman under section 57BM;

‘financial service provider’ means a person who carries on a business of providing one or more financial services;]

‘financial year’ means a period of 12 months ending on 31 December or, if the Minister, by order notified in *Iris Oifigiúil*, has prescribed a different period for the purposes of this Act, that other period;

‘function’ includes duty;

F14[‘general fund ’ means the fund referred to in section 32F;]

‘Governor’ means the person holding office as the Governor of the Bank, and includes—

(a) any person appointed to act as Governor in accordance with section 22, and

(b) the F15[Head of Central Banking] when carrying out responsibilities of the Governor in accordance with section 22A;

F16[‘Head of Central Banking’, ‘Head of Financial Regulation’ and ‘Head of Function’ shall be construed in accordance with section 23;]

F5[‘holding company’ means a company that has one or more subsidiary companies;]

‘law’ includes the Rome Treaty and the ESCB Statute;

‘local authority’ means a local authority for the purposes of the Local Government Act 2001;

F17['member' or 'member of the Commission' means an appointed member or an *ex-officio* member;]

'Minister' means the Minister for Finance;

F18['officer' means each Head of Function, the Secretary of the Bank and the Registrar of Credit Unions;]

F19[...]

'power' includes right and privilege;

F5['publication', in relation to a report or other document, includes publishing the report or document in an accessible form on an Internet website;]

'record' means any record of information, however compiled, recorded or stored, and includes—

- (a) any book, a register and any other document containing information, and
- (b) any disc, tape or other article from which information is capable of being produced in any form capable of being reproduced visually or aurally;

F20['regulated financial service provider ' means—

- (a) a financial service provider whose business is subject to regulation by the Bank under this Act or under a designated enactment or a designated statutory instrument,
- (b) a financial service provider whose business is subject to regulation by an authority that performs functions in an EEA country that are comparable to the functions performed by the Bank under this Act or under a designated enactment or designated statutory instrument, or
- (c) in relation to Part VII B only, any other financial service provider of a class specified in the regulations for the purposes of this paragraph;]

'the regulations' means regulations made by the Minister under section 61A and in force under this Act;

F21[...]

F22['Rome Treaty ' means the Treaty on the Functioning of the European Union done at Rome on 25 March 1957, as amended by the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community signed at Lisbon on 13 December 2007;]

F5['subsidiary company' has the meaning given by section 2A;

'voting rights' means—

- (a) in relation to a company that has a share capital, the rights conferred on shareholders by virtue of their shares, or
- (b) in relation to a company that does not have a share capital, the rights conferred on members,

to vote at general meetings of the company on all, or substantially all, matters.]

(2) In this Act—

- (a) a reference to an enactment is, unless the context otherwise requires, a reference to that enactment as amended or extended by or under any subsequent enactment (including this Act), and

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

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

F23[(2A) Commission Regulations (EC) No. 1287/2006<sup>1</sup> and (EC) No. 924/2009<sup>2</sup> shall be taken to be designated enactments.]

(3) A function or responsibility imposed, or a power conferred, on a person by a provision of this Act is not to be taken to be limited merely by implication from another provision, whether of this or any other Act, that imposes a function or responsibility, or confers a power, on that person.]

F5[(4) For the purposes of this Act, a person is concerned in the management of a body corporate, or a firm, that is a regulated financial service provider if the person is in any way involved in directing, managing or administering the affairs of the body or firm.

(5) In this Act, a reference to the directors of a company, in relation to a company that does not have a board of directors, is a reference to the persons responsible for directing the operations of the company.]

#### Annotations

#### Amendments:

- F1 Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 3, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F2 Inserted (1.05.2007) by *Consumer Protection Act 2007* (19/2007), s. 94(2), S.I. No. 178 of 2007.
- F3 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 2, S.I. No. 469 of 2010.
- F4 Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 1, S.I. No. 469 of 2010.
- F5 Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 2(a)-(f), (i) and (j), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.
- F6 Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 3, S.I. No. 469 of 2010.
- F7 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 3, S.I. No. 469 of 2010.
- F8 Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 4, S.I. No. 469 of 2010.
- F9 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 5, S.I. No. 469 of 2010.
- F10 Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 6, S.I. No. 469 of 2010.
- F11 Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 7, S.I. No. 469 of 2010.

<sup>1</sup> OJ L 241, 2.9.2006, pp. 1-25.

<sup>2</sup> OJ L 266, 9.10.2009, pp. 11-18.

- F12** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 8, S.I. No. 469 of 2010.
- F13** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 9, S.I. No. 469 of 2010.
- F14** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 10, S.I. No. 469 of 2010.
- F15** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 11, S.I. No. 469 of 2010.
- F16** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 12, S.I. No. 469 of 2010.
- F17** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 13, S.I. No. 469 of 2010.
- F18** Substitution (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 14, item 14, S.I. No. 469 of 2010.
- F19** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 15, S.I. No. 469 of 2010.
- F20** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 16, S.I. No. 469 of 2010.
- F21** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 17, S.I. No. 469 of 2010.
- F22** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 18, S.I. No. 469 of 2010.
- F23** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 19, S.I. No. 469 of 2010.

**Modifications (not altering text):**

- C13** Definition of “regulated financial service provider” extended (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman) Regulations 2005* (S.I. No. 191 of 2005), reg. 2, subject to saver in reg. 3.

**Extension of definition of “regulated financial services provider” for the purposes of Part VIIB of the Central Bank Act 1942 (Financial Services Ombudsman)**

2. The following classes of persons are specified as being regulated financial service providers for the purposes of paragraph (c) of the definition of “regulated financial service provider” in section 2(1) of the Central Bank Act 1942 (as amended by section 2 of the Central Bank and Financial Services Authority of Ireland Act 2004 ):

- (a) credit intermediaries who are required to be authorised by the Director of Consumer Affairs under Part IX of the Consumer Credit Act 1995 (No. 24 of 1995);
- (b) pawnbrokers who are required to be authorised by the Director of Consumer Affairs under Part XV of the Consumer Credit Act 1995;
- (c) creditors with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the contract for the provision of credit to a consumer, and under any contract of guarantee relating to the provision of that credit;
- (d) owners of goods that are subject to a hire-purchase agreement under a hire-purchase agreement with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the agreement, and under any contract of guarantee relating to the agreement or any right to recover the goods from the hirer under the agreement;
- (e) owners of goods that are subject to a consumer-hire agreement with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the

agreement, and under any contract of guarantee relating to the agreement or any right to recover the goods from the hirer under the agreement;

(f) mortgage lenders within the meaning of section 2 of the Consumer Credit Act 1995;

(g) the Voluntary Health Insurance Board established under the Voluntary Health Insurance Act 1957 (No. 1 of 1957).

**Saving**

3. Nothing in Regulation 2 affects the application of the provisions of the Central Bank Act 1942 (apart from Part VIIB) to any of the classes of persons mentioned in that Regulation to the extent (if any) that those classes fall within paragraph (a) or (b) of the definition of “regulated financial service provider” in section 2(1) of the Central Bank Act 1942 (as amended by section 2 of the Central Bank and Financial Services Authority of Ireland Act 2004).

**Editorial Notes:**

- E5** Previous affecting provision: definition of “regulated financial service provider” inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 2(g), S.I. No. 455 of 2004; substituted as per F-note above.
- E6** Previous affecting provision: definition of “Rome treaty” amended (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 2(h), S.I. No. 455 of 2004; substituted as per F-note above.

**F24**[Definition of ‘subsidiary company’.

**2A.—(1)** For the purposes of this Act, a company is a subsidiary of another company if (but only if)—

(a) that other company—

(i) holds a majority of the shareholders’ or members’ voting rights in the first-mentioned company, or

(ii) is a shareholder or member of that company and controls the composition of its board of directors, or

(iii) is a shareholder or member of that company and controls alone, in accordance with an agreement with other shareholders or members, a majority of the shareholders’ or members’ voting rights,

or

(b) that other company has the right to exercise a dominant influence over the first-mentioned company—

(i) because of provisions contained in its memorandum or articles, or

(ii) because of a control contract,

or

(c) that other company has a participating interest in the first-mentioned company and—

(i) that other company actually exercises a dominant influence over the first-mentioned company, or

(ii) that other company and the first-mentioned company are managed on a unified basis,

or

(d) the undertaking is a subsidiary of a company that is that other’s subsidiary company.



(2) In determining whether one company controls the composition of the board of directors of another company for the purposes of subsection (1)(a)(ii), section 155(2) of the Companies Act 1963 applies to companies that are subject to this Act in the same way as it applies to companies that are subject to that section.

(3) The following provisions apply for the purposes of paragraph (a) of subsection (1)(a):

(a) any shares held, or power exercisable—

(i) by a person as a nominee of that other company referred to in that paragraph, or

(ii) by, or by a nominee for, a subsidiary company of that other company (not being the subsidiary company whose shares or board of directors are involved),

are to be treated as held or exercisable by that other company;

(b) despite paragraph (a)—

(i) any shares held or power exercisable by that other company, or a subsidiary company of that other company, on behalf of a person or company that is neither that other company nor a subsidiary company of that other company is to be treated as not held or exercisable by that other company,

(ii) any shares held, or power exercisable, by that other company or by its nominee or subsidiary company are to be treated as not held or exercisable by that other company if they are held as security, but only if the power is, or the rights attaching to the shares are, exercised in accordance with instructions received from the person providing the security;

(c) any shares held or power exercisable by that other company or its nominee or subsidiary company are to be treated as not held or exercisable by that other company if the ordinary business of that other company or its subsidiary company includes lending money and those shares are held as security, but only if the power is, or the rights attaching to the shares are, exercised in the interest of the person who is providing the security.

(4) For the purposes of subsection (1)(a)(i) and (iii), the total of the voting rights of the shareholders or members in the subsidiary undertaking are to be reduced by the following:

(a) the voting rights attached to shares held by the subsidiary company in itself; and

(b) the voting rights attached to shares held in the subsidiary company by any of its subsidiary companies; and

(c) the voting rights attached to shares held by a person acting in his own name but on behalf of the subsidiary company or one of its subsidiary companies.

(5) For the purposes of subsection (1)(b), a company is not to be treated as having the right to exercise a dominant influence over another company unless it has a right to give directions with respect to the operating and financial policies of that other company and the directors of that other company are obliged to comply with those directions.

(6) In subsection (1)(b), ‘control contract’ means a contract in writing conferring a right that—

(a) is of a kind authorised by the memorandum or articles of the company in relation to which the right is exercisable, and

(b) is permitted by the law under which that company is established.

(7) Subsection (5) does not limit the construction of the expression ‘actually exercises a dominant influence’ in subsection (1)(c). ]

#### Annotations

#### Amendments:

- F24** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 3, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

The appointed day.

**3.—**(1) The Minister shall, by order appoint a day to be the appointed day for the purposes of this Act.

(2) In this Act the expression “the appointed day” means the day appointed under this section to be the appointed day for the purposes of this Act.

#### Annotations

#### Editorial Notes:

- E7** Power pursuant to section exercised (1.02.1943) by *Central Bank Act 1942 (Appointed Day) Order 1942* (S.I. No. 505 of 1942).

**2.** The 1st day of February, 1943, is hereby appointed to be the appointed day for the purposes of the Central Bank Act, 1942 (No. 22 of 1942).

Repeals.

**4.—**(1) The several sections of the Currency Act mentioned in the first column of Part I of the First Schedule to this Act are hereby repealed to the extent mentioned in the second column, and as on and from the date specified in the third column, of the said Part of the said Schedule opposite the mention of such section in the said first column.

(2) The several enactments specified in Part II of the First Schedule to this Act are hereby repealed to the extent mentioned in the third column, and as on and from the respective dates mentioned in the fourth column, of the said Part of the said Schedule.

#### Annotations

#### Editorial Notes:

- E8** This section refers to Acts repealed in the First Schedule. With the substitution of the First Schedule (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 31, S.I. No. 160 of 2003, the Schedule referred to has been removed.

## PART II.

### ESTABLISHMENT OF THE CENTRAL BANK OF IRELAND AND DISSOLUTION OF THE CURRENCY COMMISSION.

#### *Constitution, functions and powers of the Bank*

F25[Establishment of Central Bank of Ireland.

5.—(1) The body corporate formerly called the Central Bank and Financial Services Authority of Ireland is continued in existence under the name ‘Central Bank of Ireland’.

(2) The Bank—

(a) has perpetual succession, and

(b) may take legal proceedings and be proceeded against in its corporate name.

(3) The Bank is required to have a seal. The seal shall be judicially noticed.

(4) Except as expressly provided by this Act, the affairs and activities of the Bank are to be managed and controlled by the Central Bank Commission.】

#### Annotations

##### Amendments:

**F25** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 20, S.I. No. 469 of 2010.

##### Editorial Notes:

**E9** Previous affecting provision: section substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 4, S.I. No. 160 of 2003; substituted as per F-note above.

**E10** Previous affecting provision: subs. (4) substituted (23.05.2002) by *Central Bank Act 1998* (2/1998), s.3, S.I. No. 338 of 2002; substituted as per F-note above.

**E11** Previous affecting provision: subs. (3) amended (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 53(1), S.I. No. 228 of 1971 and (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(a), S.I. No. 176 of 1989, subject to transitional provisions in s.14(3); substituted as per F-note above.

F26[General functions and powers of the Bank.

5A.—(1) The Bank has the following functions:

(a) to carry out the efficient and effective co-ordination of—

(i) the activities of the Bank,

(ii) activities undertaken by persons who provide services to, or receive services from, the Bank, and

(iii) the exchange of information between the Bank and any of those persons;

F27[(aa) the functions provided for by the Central Bank and Credit Institutions (Resolution) Act 2011;】

(b) where appropriate, to represent and co-ordinate the representation of the Bank on international financial bodies and at international meetings relating to financial or economic matters;

(c) to establish and maintain, either directly or indirectly, contact with the monetary authorities established in other countries and in territories;

(d) whenever it thinks fit, to provide governments of, and financial institutions and other bodies established in, other countries and in territories with advice or other assistance on matters within its expertise;

(e) the function of holding an inquiry under Part IIIC;

- (f) the function of monitoring the provision of financial services to consumers of those services to the extent that the Bank considers appropriate, for the purposes of protecting the public interest and the interests of consumers;
- (g) to provide for the collection and study of data that deal with monetary and credit problems and to publish information about that data;
- (h) to provide advice and assistance to the Central Statistics Office about the collection, compilation, analysis and interpretation of statistics relating to the balance of payments, national accounts and other financial statistics and, where appropriate, to collect data for that purpose;
- (i) to perform such other functions as are imposed on it by or under this and any other Act or law.

(2) The Bank has power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.

(3) In particular, the powers of the Bank include powers of a kind that, in accordance with normal banking practice, may be exercised by a bank.

(4) The functions of the Agency specified in subsection (5) are, in so far as they relate to a financial service provided by a regulated financial service provider, also functions of the Bank and subsections (6) to (8) have effect for the purposes of this subsection.

(5) The functions of the Agency referred to in subsection (4) are the following functions of it under the Consumer Protection Act 2007, namely, functions under—

- (a) subsections (1), (4), (5) and (6) of section 8 of that Act in relation to—
  - (i) sections 41 to 49 and 51 to 56 of that Act, and
  - (ii) the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000 (S.I. No. 27 of 1995 and S.I. No. 307 of 2000),and
- (b) sections 30, 71, 72, 73, 75, 81, 82, 84, 86, 88 and 90 of that Act.

(6) Subsection (4) operates to vest in the Bank, concurrently with the vesting in the Agency of those functions by the Consumer Protection Act 2007, the functions specified in subsection (5).

(7) Accordingly—

- (a) the functions so specified are, subject to any relevant co-operation agreement entered into under section 21 of the Consumer Protection Act 2007, capable of being performed by either the Agency or the Bank, and
- (b) subject to subsection (9), references to the Agency in the provisions of that Act specified in subsection (5) are to be read as including references to the Bank and those provisions otherwise apply.

(8) Subject to subsection (9), sections 80, 85 and 87 of the Consumer Protection Act 2007 apply to the Bank as they apply to the Agency and, accordingly, references to the Agency in those sections are to be read as including references to the Bank.

(9) Where any section of the Consumer Protection Act 2007 specified in subsection (5) or (8) provides for anything to be done in relation to the Agency (whether the giving of notice to it, the submitting of a thing to it or the doing of any other thing) then, if a co-operation agreement entered into under section 21 of that Act so specifies, it is sufficient compliance with the section concerned if the thing is done in relation to the Agency or the Bank as is specified in that agreement.

(10) The Bank is required to perform its functions and exercise its powers in a manner consistent with the Rome Treaty and the ESCB Statute.

(11) Subject to subsection (10), the Bank shall perform its functions and exercise its powers in a way that is consistent with—

- (a) the orderly and proper functioning of financial markets,
- (b) the prudential supervision of providers of financial services, and
- (c) the public interest and the interest of consumers.

(12) The Bank can perform its functions and exercise its powers both within the State and elsewhere.]

#### Annotations

##### Amendments:

- F26** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 21, S.I. No. 469 of 2010.
- F27** Inserted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110 and sch. 2 part 1 item 1, S.I. No. 548 of 2011.

##### Editorial Notes:

- E12** Previous affecting provision: subss. (3A)-(3F) inserted (1.05.2007) by *Consumer Protection Act 2007* (19/2007), s. 94(3), S.I. No. 178 of 2007; substituted as per F-note above.
- E13** Previous affecting provision: section inserted (23.05.1998) by *Central Bank Act 1998* (2/1998), s. 4, S.I. No. 338 of 2002; substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 5, S.I. No. 160 of 2003; substituted as per F-note above.

**F28**[Specific powers of the Bank.

**5B.**—Without limiting section 5A, the powers of the Bank include power to do all or any of the following:

- (a) subject to paragraph (b), acquire, hold, dispose of or otherwise deal in all kinds of property (including real property, securities, coins, gold or silver bullion and other precious metals, and any kinds of currency or currency units);
- (b) acquire, hold or dispose of shares in a bank or other institution formed wholly or mainly by banks that are the principal currency authority in their respective countries, but only with the approval of the Minister;
- (c) enter into, carry out, assign or accept the assignment of, vary or rescind, any contract, agreement or other obligation;
- (d) provide loans and other kinds of financial accommodation to credit institutions and other persons on the security of such assets and on such terms and conditions as the Board considers appropriate;
- (e) give guarantees and make payments under them;
- (f) receive funds on deposit;
- (g) open accounts in other countries or act as agent, depository, or correspondent of any credit institution carrying on business in or outside the State;

- (h) re-discount exchequer notes or bills, local authority bills, bills of exchange and promissory notes on such terms and conditions as the Board considers appropriate;
- (i) keep registers of securities generally;
- (j) operate or participate in a depository of securities or other instruments;
- (k) keep the accounts for the clearing and settlement of securities or payment instruments;
- (l) become a member of, or a party to, the establishment or operation of one or more payment systems;
- (m) operate or participate in a system that provides a settlement service for transactions in securities or other instruments for its members;
- (n) enter into agreements with depositories of securities or of other instruments, and carry out transactions under the terms of those agreements so far as necessary for the settlement of transactions between members of those depositories and the members of any depository operated by the Bank;
- (o) transfer assets, income or liabilities to the European Central Bank where required under the ESCB Statute.]

#### Annotations

#### Amendments:

- F28** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 5, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F29** [Supplementary powers of Bank with respect to certain responsibilities.

**5C.—(1)** To enable the Bank to carry out its responsibilities, the Bank may—

- (a) undertake studies, analyses and surveys with respect to the provision of relevant financial services to consumers,
- (b) collect and compile information for that purpose, and
- (c) publish the results of any such studies, analyses or surveys.

(2) In undertaking such a study, analysis or survey, the Bank—

- (a) may, by notice in writing, require any person who, in the opinion of the Bank, has information, or has control of a record or other thing, that is relevant to the study, analysis or survey, to provide the information, record or thing to the Bank, and
- (b) may, by the same or another notice in writing, require the person to attend before an officer or employee of the Bank for that purpose.

(3) Subject to section 33AK, if the Agency is of the opinion that information obtained by the Bank pursuant to subsections (1) and (2) is relevant to the exercise of that Agency's functions under section 8(3)(ha) of the Consumer Protection Act 2007, the Bank shall provide the requested information to the Agency at the Agency's request.

(4) A person commits an offence if the person—

- (a) intentionally prevents the Bank from exercising a power conferred by subsection (1),
- (b) intentionally obstructs or hinders the Bank in the exercise of such a power,

(c) without reasonable excuse, fails to comply with a requirement made to the person in accordance with subsection (2), or

(d) in purporting to comply with a requirement made under subsection (2) to provide information, provides the Bank with information that the person knows, or ought reasonably to know, is false or misleading in a material respect.

(5) The Head of Financial Regulation may, in writing, authorise an officer or employee of the Bank to investigate the business, or any aspect of the business, of a financial service provider who has been required under this section to provide information, or a record or other thing. Such an officer or employee may take whatever steps are necessary for or in connection with carrying out such an investigation.

(6) A financial service provider who—

(a) without reasonable excuse, fails to co-operate with an investigation carried out under subsection (5), or

(b) intentionally prevents such an investigation from being carried out, or intentionally obstructs or hinders the investigation,

commits an offence.

(7) A person who is convicted of an offence under this section is liable—

(a) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding five years, or to both, or

(b) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both.

(8) Summary proceedings for an offence under this section may be brought and prosecuted by the Bank, but not to the exclusion of any other person who is authorised to bring and prosecute summary offences.]

#### Annotations

#### Amendments:

**F29** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 22, S.I. No. 469 of 2010.

**F30**[Bank to perform functions of European System of Central Banks.

**6.—**(1) The Bank shall perform all functions imposed, and exercise all powers conferred, on the Bank by or under the Rome Treaty or the ESCB Statute.

**F31**[(1A) Nothing in the *Central Bank Acts 1942 to 2010* affects the independence of the Bank, the Governor and the Commission required by the Rome Treaty and the ESCB Statute.

(1B) Without limiting the generality of subsection (1A), nothing in the *Central Bank Acts 1942 to 2010* authorises any person or authority to give any direction to, or require any action (including the provision of information) by, the Bank, the Governor or the Commission if compliance by the Bank, the Governor or the Commission (as the case may be) with the direction or requirement would be inconsistent with the Rome Treaty or the ESCB Statute.]

(2) This section is subject to section 19A.

(3) Section 9 of the Ministers and Secretaries Act 1924 does not apply to the Bank.]

**Annotations****Amendments:**

**F30** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 6, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F31** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14 and sch. 1, pt. 1, item 23, S.I. No. 469 of 2010.

**Editorial Notes:**

**E14** Previous affecting provision: section substituted (23.05.1998) by *Central Bank Act 1998* (2/1998), s. 5, S.I. No. 338 of 2002; substituted as per F-note above.

**F32**[Objectives of Bank in discharging ESCB functions, etc.

**6A.**—(1) In discharging its functions and exercising its powers as part of the European System of Central Banks, the primary objective of the Bank is to maintain price stability.

**F33**[(2) The Bank also has the following objectives:

- (a) the stability of the financial system overall;
- (b) the proper and effective regulation of financial service providers and markets, while ensuring that the best interests of consumers of financial services are protected;
- (c) the efficient and effective operation of payment and settlement systems;
- F34**[(ca) the resolution of financial difficulties in credit institutions;]
- (d) the provision of analysis and comment to support national economic policy development;
- (e) the discharge of such other functions and powers as are conferred on it by law.

(3) The Minister may, from time to time, request the Governor or the Commission to consult with the Minister, in relation to their respective functions, as regards the performance by the Bank of any function of the Bank (other than one imposed on it by the Rome Treaty or the ESCB Statute).]

(4) The Minister may, from time to time, request the Governor to inform the Minister with respect to the pursuit of the primary objective of the Bank.

**F35**[(5) The Governor or the Commission (as the case requires) shall comply with a request to the Governor or the Commission under subsection (3) or (4) in so far as the request is consistent with the Rome Treaty, the ESCB Statute and the law of the State.]

(6) Without prejudice to the objective of maintaining price stability, the Bank is required to support the general economic policies of the European Union with a view to contributing to the achievement of the objectives of that Union as laid down in Article 2 of the Rome Treaty.]



**Annotations****Amendments:**

- F32** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003.
- F33** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 24, S.I. No. 469 of 2010.
- F34** Inserted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110 and sch. 2, pt. 1, item 2, S.I. No. 548 of 2011.
- F35** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 25, S.I. No. 469 of 2010.

**F36**[Bank's power to hold and deal in land, etc.]

**6B.—** (1) For the purpose of enabling the Bank to perform its functions, the Bank—

(a) may acquire and hold land, and

(b) may build, establish, equip and maintain offices and other premises,

in such places, whether in the State or elsewhere, as it considers appropriate.

(2) The Commission is responsible for administering the provision of accommodation and office and other equipment with a view to enabling the Bank to perform and exercise its functions and powers.

(3) The Bank may sell, lease or otherwise dispose of land held by the Bank whenever the Commission considers that the land is no longer required for the purpose of enabling the Bank to perform its functions.

(4) In this section 'acquire' includes acquire by purchase, lease or exchange.]

**Annotations****Amendments:**

- F36** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 26, S.I. No. 469 of 2010.

**Editorial Notes:**

- E15** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003; substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 4, S.I. No. 455 of 2004; substituted as per F-note above.

**F37**[Power of the Bank to establish divisions, etc. within the Bank.]

**6C.—** F38[...]

**Annotations****Amendments:**

- F37** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003.
- F38** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 26, S.I. No. 469 of 2010.

F39[Staff of Bank.

**6D.—**(1) Subject to this section, the Commission shall appoint a Secretary of the Bank and such other employees of the Bank as they consider necessary for the effective performance and exercise of the functions and powers of the Bank.

(2) The Commission is responsible for administering the staff of the Bank with a view to enabling the Bank to perform and exercise its functions and powers.

(3) Except as regards the appointment of a Secretary of the Bank, the Governor has the same power to appoint employees of the Bank as the Commission has under subsection (1), but that power is only exercisable in relation to responsibilities specified in paragraphs (a) and (b) of subsection (1), and subsection (2), of section 19A.

(4) Employees appointed under subsection (3) are taken, for the purposes of this Act, to have been appointed under subsection (1).

(5) The employees of the Bank are to be employed on such conditions (including conditions as to remuneration and allowances) as the Commission fixes from time to time.

(6) Subject to subsection (8), an appointment under this section shall be made by competition to be conducted in accordance with rules made by the Commission.

(7) The Commission may, in relation to a particular competition, impose conditions of entry, limitations and safeguards.

(8) Subsection (6) does not apply to an appointment to a position if the Commission decides that appointment to the position by competition would be inappropriate.

(9) The Commission shall establish and operate a policy under which provision is made for employees of the Bank to be given opportunities for training and experience in various activities of the Bank.]

**Annotations****Amendments:**

- F39** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 26, S.I. No. 469 of 2010.

**Editorial Notes:**

- E16** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003; substituted as per F-note above.

F40[Assignment of employees of Bank.

**6E.—**F41[...]]

**Annotations****Amendments:**

- F40** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003.
- F41** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 26, S.I. No. 469 of 2010.

F42[Bank may engage agents and act as agent for others.

**6F.—The Bank may engage agents, and act as agent for other persons. ]**

**Annotations****Amendments:**

- F42** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

F43[*Financial and administrative matters*

General fund of the Bank.

**6G.—F44[...]]**

**Annotations****Amendments:**

- F43** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F44** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 1, S.I. No. 469 of 2010.

F45[Accounting and other records of Bank.

**6H.—F46[...]]**

**Annotations****Amendments:**

- F45** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F46** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 1, S.I. No. 469 of 2010.

F47[Report and returns by Bank.

6I.—F48[...]]

#### Annotations

#### Amendments:

**F47** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F48** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 1, S.I. No. 469 of 2010.

F49[Exemption of Bank from taxes.

6J.—Profits, income and chargeable gains of the Bank are exempt from corporation tax, income tax and capital gains tax despite any contrary provisions of any enactment providing for corporation tax, income tax or capital gains tax.]

#### Annotations

#### Amendments:

**F49** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

F50[Provisions relating to documents of the Bank.

6K.—(1) The Bank may keep its documents wholly or partly in a non-legible form so long as they are capable of being reproduced in a legible form.

(2) The Bank is not required to keep any of its documents (including accounting records) for longer than 6 years after the latest date of the period to which such documents relate. This subsection has effect despite any other enactment to the contrary.

(3) In any legal proceedings, a copy or reproduction in legible form of a document, or an entry in a document, kept or formerly kept by the Bank is admissible as evidence of the entry and the matters contained in it where the document has been destroyed or is kept by the Bank in a non-legible form.

(4) In this section, 'document' means any record of information, and includes—

(a) anything on which there is writing, or

(b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them, or

(c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else, or

(d) a map, plan, drawing or photograph.]

#### Annotations

#### Amendments:

**F50** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 7, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

Certain particular powers of the Bank. **7.—F51[...]**

#### Annotations

#### Amendments:

**F51** Repealed (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 8, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

#### Editorial Notes:

**E17** Previous affecting provision: section amended (23.05.1998) by *Central Bank Act 1998* (2/1998), s. 6, S.I. No. 338 of 2002; repealed as per F-note above.

**E18** Previous affecting provision: section substituted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 21, S.I. No. 150 of 1997; repealed as per F-note above.

**E19** Previous affecting provision: section amended (3.03.1964) by *Central Bank Act 1964* (3/1964), ss. 1 and 3, commenced on enactment; repealed as per F-note above.

Certain further powers of the Bank. **8.—F52[...]**

#### Annotations

#### Amendments:

**F52** Repealed (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 9, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

#### Editorial Notes:

**E20** Previous affecting provision: section amended (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 25, S.I. No. 150 of 1997; repealed as per F-note above.

The capital of the Bank. **9.—(1)** The capital of the Bank shall be the sum of forty thousand pounds whereof the sum of twenty-four thousand pounds shall be paid to the Bank by the Minister on the appointed day or as soon thereafter as may be and whereof the residue shall be paid to the Bank by the Minister at such time or times as may be agreed upon by the Board and the Minister.

**(2)** All moneys payable to the Bank by the Minister under the foregoing sub-section of this section shall be charged on and paid out of the Central Fund or the growing produce thereof.

**(3)** When the Minister has paid to the Bank the sum of twenty-four thousand pounds in pursuance of the foregoing provisions of this section, the Bank shall forthwith repay to every bank which is a Shareholding Bank immediately before the appointed day all sums paid by such bank to the Commission in pursuance of section 64 of the Currency Act together with the appropriate dividend on every such sum for the period from the last date up to which dividend had been paid thereon to the date of such repayment.

**(4)** F53[...]

**Annotations****Amendments:**

- F53** Deleted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 10, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

- E21** Forty thousand pounds, referred to in subs. (1) above, converts to €50,789.52. Twenty four thousand pounds, referred to in subss. (1) and (3) above, converts to €30,473.71. See *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1.

**F54**[Seal of Bank. **10.—**(1) The seal of the Bank shall be kept in such custody as the Commission directs.

(2) The seal of the Bank may be used only as authorised—

(a) if the seal is to be used in relation to a function or power of the Bank that is to be performed or exercised by the Commission, by the Commission, or

(b) if the seal is to be used in relation to a function or power of the Bank that is to be performed or exercised by the Governor, by the Governor.

(3) The seal of the Bank shall be authenticated by—

(a) the signature of the Governor or a member of the Commission authorised in that behalf by the Commission, and

(b) the counter-signature of the Secretary of the Bank or some other officer or employee of the Bank authorised in that behalf by the Commission.

(4) A document purporting to be made or issued by the Bank and to be sealed with the seal of the Bank authenticated in accordance with subsection (3) is admissible in evidence and shall be taken to have been made or issued by the Bank until the contrary is proved, without proof of the signature or authority of any person purporting to have signed or counter-signed it.]

**Annotations****Amendments:**

- F54** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 27, S.I. No. 469 of 2010.

**Editorial Notes:**

- E22** Previous affecting provision: section amended (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 11, S.I. No. 160 of 2003; substituted as per F-note above.

Interpretation of references to the Commission in the Currency Act, 1927.

**11.—**(1) On and after the appointed day and subject to the repeals and amendments effected by this Act, the Currency Acts, 1927 and 1930, shall have effect with and subject to the modification that every mention of or reference to the Chairman shall be construed as a mention of or reference to the Governor and every mention of or reference to the Commission shall be construed as a mention of or reference to the Bank, save that any such mention or reference which, expressly or by necessary implication, refers to the members of the Commission shall be construed as a mention of or reference to the Board.

(2) A legal tender note may, on and after the appointed day, be either of such form, size and design and printed in such manner and on such paper and numbered and authenticated in such manner as shall have been prescribed (whether before or after the passing of this Act) by the Commission under sub-section (2) of section 45 of the Currency Act (as modified by the foregoing sub-section of this section) before the appointed day or of such form, size and design and printed in such manner and on such paper and numbered and authenticated in such manner as shall be prescribed by the Bank under the said sub-section (2) of the said section 45 (as modified as aforesaid) on or after the appointed day.

(3) A consolidated bank note may, on and after the appointed day, be either of such form, size and design, and printed in such manner and on such, paper and numbered and authenticated in such manner as shall have been prescribed (whether before or after the passing of this Act) by the Commission under sub-section (3) of section 51 of the Currency Act (as modified by the first sub-section of this section) before the appointed day or of such form, size and design and printed in such manner and on such paper and numbered and authenticated in such manner as shall be prescribed by the Bank under the said sub-section (3) of the said section 51 (as modified as aforesaid) on or after the appointed day.

The Associated Banks.

**12.—F55[...]**

**Annotations**

**Amendments:**

**F55** Repealed (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 4(1) and sch. pt. 1, S.I. No. 150 of 1997.

Admission of a bank to be an Associated Bank.

**13.—F56[...]**

**Annotations**

**Amendments:**

**F56** Repealed (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 4(1) and sch. pt. 1, S.I. No. 150 of 1997.

Removal of a bank from being an Associated Bank.

**14.—F57[...]**

**Annotations**

**Amendments:**

**F57** Repealed (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 4(1) and sch. pt. 1, S.I. No. 150 of 1997.

**Editorial Notes:**

**E23** Previous affecting provision: subs. (5) deleted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(b), S.I. No. 176 of 1989, subject to transitional provisions in subs. (3)(b); repealed as per F-note above.

Dissolution of the Commission. **15.—** (1) F58[...]

(2) F58[...]

(3) F58[...]

(4) Every person who, immediately before the appointed day, is in the employment of the Commission in any capacity shall, on the appointed day, become and be transferred to the employment of the Bank in the same capacity and with the same tenure, remuneration, and conditions of service as he had in the employment of the Commission immediately before the appointed day, and in order to secure to every such person on and after the appointed day the like rights and benefits (if any) in relation to superannuation and compensation for loss of employment as he had immediately before the appointed day, the following provisions shall have effect, that is to say:—

(a) every scheme made by the Commission under sub-section (4) of section 31 of the Currency Act which is in force immediately before the appointed day shall continue in force on and after the appointed day and shall be observed and performed by the Bank accordingly;

(b) for the purposes of every scheme continued in force by the foregoing paragraph of this sub-section and of every scheme which may be made by the Bank under the said sub-section (4) of section 31 on or after the appointed day, service in the employment of the Commission (including service in any other employment which is deemed by such scheme to be service in the employment of the Commission) shall be deemed to be service in the employment of the Bank and the period of service (including service deemed as aforesaid) of any person in the employment of the Commission ending immediately before the appointed day and the period of service of such person in the employment of the Bank beginning on and continuing after the appointed day shall be deemed to be one continuous period of service in the employment of the Bank.

#### Annotations

##### Amendments:

**F58** Repealed (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 12, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F59** Repealed by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 12, S.I. No. 160 of 2003, not commenced as of 22.02.2013, subject to transitional provisions in s. 36 and sch. 3.

##### Modifications (not altering text):

**C14** Prospective amending provision: subs. (4) repealed by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 12, not commenced as of 22.02.2013.

(4) F59[...]

##### Editorial Notes:

**E24** Previous affecting provision: subs. (3) repealed (27.03.1998) by *Finance Act 1998* (3/1998), s. 125 and sch. 8, commenced on enactment.

Appointments to the staff of the Bank. **16.—** F60[...]



**Annotations****Amendments:**

**F60** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

Copyright in  
notes issued by  
the Bank.

**17.—F61[...]**

**Annotations****Amendments:**

**F61** Repealed (1.10.1964) by *Copyright Act 1963* (10/1963), s. 6 and sch. 2, S.I. No. 177 of 1964.

**Editorial Notes:**

**E25** *Copyright Act 1963* (10/1963) was almost all repealed (1.01.2001) by *Copyright and Related Rights Act 2000* (28/2000), s. 10 and sch. 2 part 1. The 2000 Act, s. 200 makes provision for copyright in Irish legal tender notes, euro notes, consolidated bank notes and in Irish and euro coins.

General adapta-  
tion of references  
to the Commis-  
sion.

**18.—**Every mention of or reference to the Commission which is contained in any enactment (other than the Currency Acts, 1927 and 1930) in force on the appointed day shall, on and after that day, be construed and have effect as a mention of or reference to the Bank.

## PART III.

## THE BOARD OF DIRECTORS OF THE BANK.

**F62**[Interpreta-  
tion: Part III.

**18A.—**In this Part, unless the context otherwise requires—

‘credit institution’ means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credit on its own account but does not include the European Central Bank;

‘financial institution’ means an undertaking, other than a credit institution, that provides one or more of the kinds of financial services that are set out in the Schedule to the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992);

‘insurance undertaking’ has the meaning given by the Insurance Act 1989. ]

**Annotations****Amendments:**

**F62** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 13, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3, paras. 2 and 3.

**F63**[Functions of  
Central Bank  
Commission.

**18B.—**(1) Except as expressly provided otherwise by this Act, the affairs and activities of the Bank shall be managed and controlled by the Central Bank Commission.

(2) The Commission shall ensure that the Bank's central banking functions and financial regulation functions are integrated and coordinated.

(3) Without prejudice to section 19A, the Commission shall ensure that the powers and functions conferred on the Bank by sections 5A, 5B and 5C are properly exercised and discharged.

(4) The performance and exercise of the functions and powers of the Commission are not affected by there being one or more vacancies in the membership of the Commission.]

#### Annotations

#### Amendments:

**F63** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

#### Editorial Notes:

**E26** Previous affecting provision: subs. (2) deleted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 232 and sch. 3 pt. 2, item 1, S.I. No. 545 of 2009; substituted as per F-note above.

**E27** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 13, S.I. No. 160 of 2003; substituted as per F-note above.

**F64**[Membership of Board and Regulatory Authority.

**18BA.—**(1) Nothing in this Act shall be read so as to prevent any member of the Board from being a member of the Regulatory Authority.

(2) Where more than half of the members of the Board are also members of the Regulatory Authority, then paragraph 2 of Schedule 1 shall apply as if it read 'A quorum for all meetings of the Board is 7'. ]

#### Annotations

#### Amendments:

**F64** Inserted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 232 and sch. 3 pt. 2, item 2, S.I. No. 545 of 2009.

**F65**[Acts, etc., of Commission to be acts, etc., of Bank.

**18C.—**Any act, matter or thing done in the name of, or on behalf of, the Bank by the Commission in the performance or exercise of the Commission's functions or powers shall be taken to have been done by the Bank.]

#### Annotations

#### Amendments:

**F65** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

#### Editorial Notes:

**E28** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 13, S.I. No. 160 of 2003; substituted as per F-note above.

F66[Membership of Commission.

**18CA.—**(1) The Commission comprises—

(a) the persons for the time being holding or performing the duties of the following offices:

(i) Governor;

(ii) Head of Central Banking;

(iii) Head of Financial Regulation;

(iv) Secretary General of the Department of Finance, and

(b) at least 6, but no more than 8, other members appointed by the Minister.

(2) The Governor is the Chairperson of the Commission.]

#### Annotations

#### Amendments:

**F66** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

F67[Additional powers of Commission.

**18D.—**(1) The Commission has power to do whatever is necessary for or in connection with, or reasonably incidental to, the performance of its functions.

(2) Without prejudice to the generality of subsection (1) and subject to subsection (3), the Commission—

(a) may establish committees of the Commission consisting of one or more members of the Commission either solely or together with one or more officers or employees of the Bank, and

(b) may determine the procedure and define the functions and powers of such committees.

(3) Subsection (2) does not authorise the Commission to delegate to a committee any function of the Bank that a provision of this Act requires to be performed by the Governor. ]

#### Annotations

#### Amendments:

**F67** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

#### Modifications (not altering text):

**C15** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 13, S.I. No. 160 of 2003; substituted as per F-note above.

F68[Bank may establish advisory groups.

**18E.—**(1) Subject to subsection (2), the Bank may establish an advisory group or groups to advise it on the performance of its functions and the exercise of its powers and shall in particular establish the following:

(a) an advisory group to advise the Bank on the performance of its functions and the exercise of its powers in relation to consumers of financial services;

(b) an advisory group to advise the Bank, where the Bank so requests, on the performance of its functions and the exercise of its powers in relation to credit unions.

(2) The Bank shall not establish an advisory group in relation to the Governor's ESCB-related functions.

(3) Subject to subsection (4), an advisory group established under subsection (1) shall be made up of persons who have expertise, knowledge or experience relevant to the functions of the advisory group concerned, and may include members of the Commission, officers of the Bank or employees of the Bank.

(4) The advisory group (in this section called 'the consumer advisory group') established to advise the Bank on the performance of its functions and the exercise of its powers in relation to consumers of financial services shall not include members of the Commission, officers of the Bank or employees of the Bank.

(5) The consumer advisory group shall advise the Bank on the exercise of the Bank's powers and the performance of the Bank's functions in relation to the consumers of financial services and in particular in relation to—

- (a) the effects of the Bank's Strategic Plans on consumers of financial services,
- (b) initiatives aimed at further enhancing the protection of consumers of financial services, and
- (c) if the Bank so requests, documents, consultation papers or other materials prepared by the Bank.

(6) The period for which a member of the consumer advisory group is appointed may be up to 3 years. A member is eligible for re-appointment.

(7) The Bank shall determine the manner in which, and the reasons for which, a member of an advisory group may be removed from membership of the advisory group.

(8) The Bank shall provide an advisory group with such administrative services and funds as the Bank believes necessary to carry out its functions. ]

#### Annotations

#### Amendments:

**F68** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

**F69** [Delegation of certain functions of Commission, etc.

**18F.**—(1) Subject to subsection (3), the Commission may delegate to the Governor, a Head of Function or an employee of the Bank any function or power of the Commission, if the Commission considers it appropriate to do so in the interests of the efficient and effective management of the Bank and the exercise of its powers and functions.

(2) Without prejudice to the generality of subsection (1), the Commission may in particular—

- (a) delegate to a specified person or body (including a committee established under section 18D(2)) the performance or exercise of any one or more of the functions and powers of the Commission;
- (b) impose conditions, limitations, or restrictions on the performance or exercise by any such person or body of functions or powers delegated under this subsection;

- (c) provide in appropriate cases for the review by the Commission of decisions taken or things done by any such person or body in the performance or exercise of any function or power so delegated.

(3) Subsection (2) does not authorise the Commission to delegate to a committee any function of the Bank that a provision of this Act requires to be performed by the Governor.]

#### Annotations

#### Amendments:

- F69** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 28, S.I. No. 469 of 2010.

Appointment,  
tenure of office,  
etc., of the  
Governor.

**19.—(1)** The Governor shall be appointed by the President on the advice of the Government and shall receive such remuneration and allowances and be subject to such conditions of service as the Board shall from time to time determine.

**F70[(2)** A person is not eligible for appointment as Governor 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 or is nominated as a member of Seanad Éireann, or
- (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 or is, with the person's consent, nominated as a candidate for election as such a member.

(3) A person appointed as Governor holds office for 7 years from the date of the person's appointment, unless the person previously ceases to hold that office as provided by this Part.

(4) The President, on the advice of the Government, may appoint a person holding office as Governor for a further period of 7 years to take effect at the end of the person's current period of appointment. This subsection applies whether the person was appointed under subsection (1) or this subsection.

(5) A person holding office as Governor is disqualified from being a director of a credit institution, financial institution or insurance undertaking.

(6) If a person who is appointed to the office of Governor is a director of a credit institution, financial institution or insurance undertaking, the person ceases to hold that office at the end of 10 days after the date of the appointment unless, within that period, the person ceases to be such a director.

(7) A person ceases to hold office as Governor if the person—

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns by notice in writing given to the President, or
- (d) is, with the person's consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann, or

- (e) is, with the person's consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament, or
- (f) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or
- (g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or
- (h) becomes physically or mentally incapable of performing the duties of Governor, or
- (i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or
- (j) ceases to hold the office because of subsection (6), or
- (k) becomes disqualified from holding the office under section 20, or
- (l) is removed from the office under section 21. ]

#### Annotations

#### Amendments:

- F70** Substituted by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 14, subject to transitional provisions in s. 36 and sch. 3. Subss. (2)-(5) were commenced (4.06.2003) by S.I. No. 218 of 2003. Subss. (6) and (7) were commenced (1.05.2003) by S.I. No. 160 of 2003.

#### Editorial Notes:

- E29** Previous affecting provision: subs. (4)(a) repealed (3.03.1964) by *Central Bank Act 1964* (3/1964), s. 3(ii), commenced on enactment.
- E30** Previous affecting provision: subss. (4)(b) and (5) substituted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 26, S.I. No. 150 of 1997; substituted as per F-note above.

**F71**[Responsibilities and powers of the Governor.

**19A.—(1)** The Governor is responsible for—

- (a) holding and managing by the Bank of the foreign reserves of the State, and
- (b) promoting the efficient and effective operation of payment and settlement systems, and
- (c) performing such other functions as are imposed on the Governor by or under this Act or by or under another law.

(2) The Governor has sole responsibility for the performance of the functions imposed, and the exercise of powers conferred, on the Bank by or under the Rome Treaty or the ESCB Statute.

**F72**[(3) Subject to the requirements of the Rome Treaty and the ESCB Statute, the Governor shall provide the Commission with information about, and may discuss with the Commission, the performance by the Governor of the functions and powers referred to in subsections (1) and (2).]

(4) The Governor has power to do whatever is necessary for or in connection with, or reasonably incidental to, carrying out the Governor's responsibilities.

(5) In carrying out or exercising the Governor's responsibilities or powers, the Governor shall, as far as reasonably practicable, ensure that the resources of the Bank

allocated for carrying out those responsibilities or exercising powers are used effectively, efficiently and economically.

(6) Any act, matter or thing done in the name of, or on behalf of, the Bank by the Governor in the performance or exercise of the Governor's responsibilities or powers is to be taken to have been done by the Bank. ]

#### Annotations

#### Amendments:

- F71** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 15, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F72** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 29, S.I. No. 469 of 2010.

**F73**[Decisions about certain issues involving Treaties governing European Union and ESCB Statute.

**19B.**—Where the Commission is considering a budgetary or funding issue relating to the Bank, and in the opinion of the Governor the issue has implications for the independence of the Bank or the performance by the Governor of the functions conferred on the Governor and the Bank by or under the treaties governing the European Union (within the meaning given by section 1 of the European Communities Act 1972 as amended by section 2 of the European Communities Act 2009) or the ESCB Statute, the Governor shall so inform the Commission and thereafter—

- (a) the Commission shall cease to consider the issue,
- (b) the Governor has the sole right to determine the issue, and
- (c) the Governor's decision is final.]

#### Annotations

#### Amendments:

- F73** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt.1, item 30, S.I. No. 469 of 2010.

#### Editorial Notes:

- E31** Previous affecting provision: section inserted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 232 and sch. 3, pt. 2, item 3, S.I. No. 545 of 2009; substituted as per F-note above.

Prohibition of the Governor holding shares in a **F74**[financial institution].

**20.**—(1) Every person appointed to be Governor shall within three months after his appointment absolutely sell or otherwise dispose of all shares in any **F74**[financial institution] which he shall, at the time of his appointment, own or be interested in for his own benefit.

(2) If and whenever any shares in a **F74**[financial institution] shall come to or vest in the Governor by will or succession for his own benefit, he shall, within three months after the same shall have so come to or vested in him, absolutely sell or otherwise dispose of the same or his interest therein.

(3) The Governor shall not purchase, take or become interested in for his own benefit any shares in any **F74**[financial institution].

(4) If the Governor shall retain, purchase, take, or become or remain interested in any shares in any F74[financial institution] in contravention of this section he shall forthwith become and be disqualified from holding the office of Governor.

F75[(4A) This section does not prohibit the Governor from—

- (a) entering into a policy of insurance, or
- (b) purchasing units of, or participating in, a collective investment scheme whose funds are invested in bonds or equities generally (including the bonds or shares of a financial institution), or
- (c) establishing and maintaining an ordinary savings account with a building society or a friendly society.

(5) In this section—

‘bank’ includes a bank incorporated outside the State as well as a bank incorporated in the State;

‘financial institution’ includes a credit institution and an insurance undertaking;

‘shares’, in relation to a bank, include stock, shares, debentures, debenture stock, bonds and other securities of the bank.]

#### Annotations

#### Amendments:

**F74** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 5(a), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F75** Inserted and substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 5(b) and (c), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### Editorial Notes:

**E32** Previous affecting provision: construction of “Bank” extended (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 27(1); substituted as per F-note above.

**F76**[Removal of Governor from office.

**21.—(1)** The President may, on the advice of the Government, remove the Governor from office on the ground that the Governor has, because of ill-health, become permanently incapacitated from carrying out the responsibilities of Governor.

(2) The President may, on the advice of the Government, remove the Governor from office F77[...] on one or more specified grounds of serious misconduct.

(3) A decision of the President removing a Governor from office under this section takes immediate effect from the date on which the decision is notified to the Governor or the date on which the decision is first published, whichever date first occurs.

(4) A decision of the President removing a Governor from office under this section can be referred to the European Court of Justice in such manner and on grounds consistent with Article 14.2 of the ESCB Statute.]



**Annotations****Amendments:**

- F76** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 16, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F77** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt.1, item 31, S.I. No. 469 of 2010.

**Editorial Notes:**

- E33** Previous affecting provision: subs. (2) amended and (3) inserted (23.05.1998) by *Central Bank Act 1998* (2/1998), s. 7, S.I. No. 338 of 2002; substituted as per F-note above.

**F78**[Acting  
Governor.

**22.—(1)** The Governor may appoint one of the other **F79**[members] to act as Governor to carry out the designated responsibilities of the Governor's office whenever the Governor is temporarily unable to carry out those responsibilities, whether because of absence or ill-health or for any other reason.

(2) If the Governor fails to make an appointment in the circumstances specified in subsection (1), the other **F80**[members] may appoint one of them to carry out the designated responsibilities.

**F81**[(3) If the office of Governor becomes vacant, the Commission may appoint another member of the Commission to act as Governor to carry out the designated responsibilities of the Governor during the vacancy. A member so appointed shall not continue to act after the end of 3 months from the occurrence of the vacancy which occasioned his or her appointment.

(4) A member appointed under this section, while acting as Governor, has the designated responsibilities of the office of Governor and also the powers relating to the carrying out of those responsibilities.

(5) A member appointed under this section to act as Governor is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commission determines from time to time.

(6) A member appointed under this section to act as Governor does not, by reason of that appointment, vacate his or her office as a member.

(7) This section does not apply to responsibilities of the Governor that are required, by virtue of section 22A, to be carried out by the Head of Central Banking in any of the circumstances specified in that section.]

(8) In this section, 'designated responsibilities', in relation to the office of Governor, means those responsibilities of the Governor other than those specified in section 19A(1)(a) and (b) and (2).]

**Annotations****Amendments:**

- F78** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 17, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F79** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 32, S.I. No. 469 of 2010.

**F80** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 33, S.I. No. 469 of 2010.

**F81** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 34, S.I. No. 469 of 2010.

**F82[F83[Head of Central Banking]** to carry out certain responsibilities of the Governor.

**22A.**—The **F83[Head of Central Banking]** is required to carry out the responsibilities of the Governor under section 19A (other than under subsection (1)(c)) and paragraph 3(3) of Schedule 1 whenever—

(a) the Governor is, because of absence or ill-health or for any other reason, unable to carry out those responsibilities, or

(b) the office of Governor is vacant. ]

#### Annotations

#### Amendments:

**F82** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 18, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F83** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt.1, item 35, S.I. No. 469 of 2010.

**F84[Heads of Function.**

**23.**—(1) In this Act a reference to the Heads of Function is a reference to the Head of Central Banking and the Head of Financial Regulation.

(2) With the consent of the Minister, the Commission may substitute another title for either or both of the titles ‘Head of Central Banking’ and ‘Head of Financial Regulation’. If the Commission does so, the Commission shall cause a notice of the substitution to be published in the *Iris Oifigiúil*. The substitution has effect only on and after the date of that publication.

(3) If the Commission substitutes a title in accordance with subsection (2), a reference in this Act or in any other enactment or statutory instrument to the title ‘Head of Central Banking’ or ‘Head of Financial Regulation’, as the case may be, shall be construed in accordance with the substitution. ]

#### Annotations

#### Amendments:

**F84** Substituted (1.10.2010) by *Central Bank Reform 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. No. 469 of 2010.

#### Editorial Notes:

**E34** Previous affecting provision: subss. (1) and (3) deleted and subs. (4) amended (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 19, S.I. No. 160 of 2003; substituted as per F-note above.

**E35** Previous affecting provision: subs. (5) repealed (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 4(1) and sch. pt. 1, S.I. No. 150 of 1997.

**E36** Previous affecting provision: subs. (7) deleted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(b), S.I. No. 176 of 1989, subject to transitional provisions in subs. (3)(b).

- E37** Previous affecting provision: subs. (2) deleted and subs. (4) amended (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch, S.I. No. 228 of 1971; substituted as per F-note above.
- E38** Previous affecting provision: subs. (6) repealed (3.03.1964) by *Central Bank Act 1964* (3/1964), s. 3(iii), commenced on enactment.

**F85**[Responsibilities of Heads of Function.

**23A.**—Subject to section 22A, the responsibilities of a Head of Function are those assigned to the office concerned by the Commission.]

#### Annotations

#### Amendments:

- F85** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. No. 469 of 2010, subject to transitional provision in s. 4(6).

**F85**[Appointment of Heads of Function.

**23B.**—(1) The Commission shall, with the consent of the Minister, appoint suitably qualified persons as Heads of Function.

(2) Subject to subsection (3), an appointment as a Head of Function shall be made by open competition.

(3) Subsection (2) does not apply to the appointment of a Head of Function if the Commission, with the consent of the Minister, decides that appointment to the office by open competition would be inappropriate.

(4) A person is not eligible for appointment as a Head of Function if he or she—

- (a) is a member of either House of the Oireachtas,
- (b) is, with his or her consent, nominated as a candidate for election as such a member or is nominated as a member of Seanad Éireann,
- (c) is a member of the European Parliament or is, with his or her consent, nominated as a candidate for election as such a member or to fill a vacancy in the membership of that Parliament, or
- (d) is a member of a local authority or is, with his or her consent, nominated as a candidate for election as such a member.]

#### Annotations

#### Amendments:

- F85** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. No. 469 of 2010, subject to transitional provision in s. 4(6).

**F86**[Terms of appointment of Heads of Function.

**23C.**—(1) An appointment as a Head of Function has effect from the date on which the Minister consents to the appointment or a later date agreed between the Commission and the person appointed.

(2) Subject to subsections (3) and (6), a Head of Function holds office for up to 5 years, as the Minister approves at the time of the Head of Function's appointment, and is eligible for reappointment provided that the total term in office of a person appointed as a Head of Function shall not exceed 10 years.

(3) The following do not count towards determining the period for which a person has held office as a Head of Function:

(a) any period during which the person was acting in either office of Head of Function;

(b) any period during which the person held the other office of Head of Function.

(4) A Head of Function shall receive such remuneration and allowances, and is subject to such conditions of service, as the Commission from time to time determines.

(5) A person appointed as a Head of Function may engage in other remunerative employment only with the consent of the Commission.

(6) A person ceases to hold office as a Head of Function if he or she—

(a) dies,

(b) completes a term of office and is not re-appointed,

(c) resigns the office by notice in writing addressed to the Governor,

(d) is, with his or her consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann,

(e) is, with his or her consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament,

(f) is, with his or her consent, nominated as a candidate for election as a member of a local authority,

(g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors,

(h) becomes physically or mentally incapable of performing the duties of the relevant office of Head of Function,

(i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or

(j) is removed from office under subsection (7).

(7) The Commission may remove or suspend a Head of Function from office, but only for reasons previously notified in writing to the Head of Function concerned.】

#### Annotations

#### Amendments:

**F86** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. 469 of 2010, subject to transitional provision in s. 4(6).

**F87**【Acting Heads of Function. **23D.—(1)** In the event of—

(a) the illness or absence of a Head of Function,

(b) the suspension from office of the holder of such an office, or

(c) a vacancy in such an office,

the Governor, with the consent of the other members of the Commission, may appoint a member of the Commission or an officer or employee of the Bank to act in the relevant office.

(2) A person acting as a Head of Function has, while acting in that office, all the responsibilities and powers of that office.

(3) The other members of the Commission may at any time remove from office a person who is acting as a Head of Function.

(4) If a person is to act as a Head of Function for a period of more than 6 months, the appointment does not take effect until the Minister approves it. A person acting as a Head of Function shall not continue to so act for more than 6 months without the consent of the Minister.

(5) A person acting as a Head of Function is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commission determines from time to time.]

#### Annotations

#### Amendments:

**F87** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. 469 of 2010.

**F88**[Appointment of members of Commission.

**24.—**(1) The Minister may appoint a person as a member of the Commission if and only if the Minister is of the opinion that the person has relevant knowledge of—

- (a) accountancy,
- (b) actuarial science,
- (c) banking,
- (d) consumer interests,
- (e) corporate governance,
- (f) economics,
- (g) financial control,
- (h) financial regulation,
- (i) financial services,
- (j) insurance,
- (k) law,
- (l) social policy, or
- (m) systems control.

(2) A person is not eligible for appointment as a member of the Commission if he or she—

- (a) is a member of either House of the Oireachtas,
- (b) is, with his or her consent, nominated as a candidate for election as such a member or is nominated as a member of Seanad Éireann,

(c) is a member of the European Parliament or is, with his or her consent, nominated as a candidate for election as such a member or to fill a vacancy in the membership of that Parliament, or

(d) is a member of a local authority or is, with his or her consent, nominated as a candidate for election as such a member.]

#### Annotations

#### Amendments:

**F88** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. 469 of 2010.

#### Editorial Notes:

**E39** Previous affecting provisions: section substituted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(c), S.I. No. 176 of 1989, subject to transitional provisions in subs. (3)(b); substituted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 50, S.I. No. 150 of 1997; substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 20, S.I. No. 160 of 2003; substituted as per F-note above.

**F89**[Remuneration, etc., of appointed members of Commission.

**24A.**—An appointed member of the Commission is entitled to receive such remuneration and allowances, and is subject to such conditions of service, as the Minister from time to time determines.]

#### Annotations

#### Amendments:

**F89** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. 469 of 2010.

**F90**[Tenure of office of members of Commission.

**24B.**—(1) An *ex-officio* member of the Commission holds office as such for as long as he or she holds or performs the duties of the office by virtue of which he or she is such a member.

(2) Subject to subsections (3) and (4), an appointed member of the Commission holds office as such for a period of 5 years unless he or she previously ceases to hold that office in accordance with a provision of this Part.

(3) Of the first 8 persons appointed as members of the Commission—

(a) 2 or 3 of those persons shall be appointed for a first term of 5 years,

(b) 2 or 3 of those persons shall be appointed for a first term of 4 years, and

(c) 2 or 3 of those persons shall be appointed for a first term of 3 years.

(4) An appointed member of the Commission shall not be entitled to serve more than 2 terms of office. ]

**Annotations****Amendments:**

- F90** Inserted (1.10.2010) by *Central Bank Reform 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. No. 469 of 2010.

**F91** [Vacation of office of members of Commission.

**25.—**(1) A person ceases to be an *ex-officio* member of the Commission if he or she ceases to hold or perform the duties of the office by virtue of which he or she is such a member.

(2) An appointed member of the Commission ceases to be an appointed member if he or she—

- (a) dies,
  - (b) completes a term of office and is not re-appointed,
  - (c) resigns the office by notice in writing addressed to the Governor,
  - (d) has, without the permission of the other members, been absent from meetings of the Commission for a consecutive period of 6 months,
  - (e) is, with his or her consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann,
  - (f) is, with his or her consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament,
  - (g) is, with his or her consent, nominated as a candidate for election as a member of a local authority,
  - (h) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors,
  - (i) becomes physically or mentally incapable of performing the duties of a member of the Commission,
  - (j) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or
  - (k) is removed from office under subsection (3).
- (3) The Minister may remove an appointed member of the Commission from office—
- (a) for proven misconduct or incompetence, or
  - (b) if in the Minister's opinion it is necessary or desirable to do so to enable the Commission to function effectively.]

**Annotations****Amendments:**

- F91** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 36, S.I. 469 of 2010.

**Editorial Notes:**

- E40** Previous affecting provision: section amended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 323 and sch. 3 pt. 2 items 4-6, S.I. No. 545 of 2009; substituted as per F-note above.
- E41** Previous affecting provision: section substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 21, S.I. No. 160 of 2003; substituted as per F-note above.
- E42** Previous affecting provision: subs. (d) deleted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 4(1) and sch, pt. 1, S.I. No. 150 of 1997.

Panel for  
appointment of  
the first banking  
Directors.

**26.—F92[...]****Annotations****Amendments:**

- F92** Repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Panel for the  
appointment of  
banking Directors  
other than the  
first such Direc-  
tors.

**27.—F93[...]****Annotations****Amendments:**

- F93** Repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

**F94**[Filling of  
vacancies in  
Commission.

**28.—**As soon as practicable after an appointed member of the Commission ceases to hold office, the Minister shall appoint a person to fill the vacancy.]

**Annotations****Amendments:**

- F94** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 37, S.I. No. 469 of 2010.

**Editorial Notes:**

- E43** Previous affecting provision: section substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 22, S.I. No. 160 of 2003; substituted as per F-note above.
- E44** Previous affecting provisions: subs. (1) substituted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(d), S.I. No. 176 of 1989, subject to transitional provisions in subs. (3); substituted as per E-note above.



**E45** Previous affecting provision: subs. (2) substituted (9.04.1997) by *Central Bank Act 1997* (8/1997), s. 51, S.I. No. 150 of 1997; substituted as per E-note above.

Prohibition of certain Directors holding shares in a bank.

**29.—F95[...]**

**Annotations**

**Amendments:**

**F95** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 14(1)(b), S.I. No. 176 of 1989, subject to transitional provision in subs. (3).

Operation of disqualification of the Governor or a Director.

**30.—F96[...]**

**Annotations**

**Amendments:**

**F96** Repealed (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 23, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

Oath of secrecy to be taken by the Governor, Directors, and officers.

**31.—F97[...]**

**Annotations**

**Amendments:**

**F97** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

**Editorial Notes:**

**E46** Previous affecting provision: application of section extended (21.12.1979) by *European Communities (Licensing and Supervision of Banks) Regulations 1979* (S.I. No. 414 of 1979), reg. 7; superseded as per F-note above.

**E47** Previous affecting provision: application of section extended (9.09.1985) by *European Communities (Consolidated Supervision of Banks) Regulations 1985* (S.I. No. 302 of 1985), reg. 7; revoked (1.01.1993) by *European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992* (S.I. No. 396 of 1992), reg. 12.

F98[Meetings and procedure of the F99[Commission]].

**32.—Schedule 1** has effect with respect to meetings and procedure of the F99[Commission].

**Annotations****Amendments:**

- F98** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 24, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F99** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 38, S.I. No. 469 of 2010.

Compensation  
and superannua-  
tion of Chairman,  
Commissioners,  
Governor, and  
Directors.

**33.—F100[...]****Annotations****Amendments:**

- F100** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 2, S.I. No. 469 of 2010, subject to restriction in s. 8 (Saving of certain schemes).

**Editorial Notes:**

- E48** Previous affecting provision: section repealed by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 25, not commenced.
- E49** Previous affecting provision: power to amend Scheme under section provided (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 54(2), S.I. No. 228 of 1971.
- E50** Previous affecting provision: general power to amend Scheme under section provided (30.03.1961) by *Central Bank Act 1961* (8/1961), s. 2, commenced on enactment, subject to limitations in s. 3.

## F101[PART IIIA

## MANAGEMENT, FINANCE, AND ACCOUNTABILITY

## Chapter 1A

## Management]

**Annotations****Amendments:**

- F101** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**Editorial Notes:**

- E51** Previous affecting provisions: Part IIIA (ss. 33A-33AM) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3; substituted (1.10.2010 except s. 32B) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1 pt. 1, item 39, S.I. No. 469 of 2010.

The previously inserted ss. 33A-33M and ss. 33N-33V are substituted by the newly numbered ss. 32A-32M. The numbering resumes with ss. 33N-33V, which are effectively deleted.

F101[Framework for assignment of responsibilities.

**32A.—**(1) The Governor shall propose to the Commission a plan of the assignment of responsibility for specified powers and functions of the Bank to himself or herself, a Head of Function or an officer or employee of the Bank.

(2) Where appropriate, the assignment of the responsibility for the performance of a function requires the person to whom the function is assigned—

- (a) to provide policy advice in relation to the subject matter of the assignment and related matters,
- (b) to achieve any outputs specified in the assignment,
- (c) to accept responsibility for the operation of statutory schemes or programmes specified in the assignment,
- (d) to accept responsibility for the delivery of quality services pursuant to the assignment,
- (e) to ensure that the expenditure in relation to the area of the assignment accords with the purpose for which the expenditure is appropriate and chargeable to the accounts of the Bank and that value for money is obtained, and
- (f) to perform, on behalf of the Commission, functions in relation to appointments, performance and discipline of personnel in the area of the assignment.

(3) A Head of Function or an employee to whom the responsibility for the performance of a function has been assigned is accountable for the performance of the function to the Governor and to any other person specified for the purpose in the assignment.]

#### Annotations

#### Amendments:

**F101** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F102[Bank to prepare strategic plan.

**32B.—...**

#### Annotations

#### Amendments:

**F102** Substituted and inserted by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, not commenced as of 22.02.2013.

#### Modifications (not altering text):

**C16** Prospective amending provision: section substituted and inserted by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, not commenced as of 22.02.2013.

F102[Bank to prepare strategic plan.

**32B.**—(1) At least 3 months before the beginning of each period specified in subsection (2), the Bank shall—

- (a) prepare for the period a strategic plan that complies with this section, and
- (b) submit the plan to the Minister.

(2) The periods referred to in subsection (1) are—

- (a) the period of 3 financial years that begins on 1 January 2011, and
- (b) each subsequent period of 3 financial years.

(3) A strategic plan shall specify—

- (a) the objectives of the Bank's activities for the relevant period,
- (b) the nature and scope of the activities to be undertaken,
- (c) the strategies and policies for achieving those objectives,
- (d) targets and criteria for assessing the performance of the Bank, and
- (e) the uses for which the Bank proposes to apply its resources.

(4) If the Minister has notified the Bank in writing of any requirements with respect to the form in which a strategic plan is to be prepared, such a plan shall comply with those requirements.

(5) As soon as practicable after receiving the Bank's strategic plan, the Minister shall arrange for the plan to be laid before each House of the Oireachtas.

(6) As soon as practicable after becoming aware that a strategic plan has been laid before both Houses of the Oireachtas, the Bank shall publish the strategic plan and take all reasonably practical steps to implement it.]

#### F103[Chapter 2A

##### *Finance and accounting*

Annual estimates in relation to financial regulation functions.

**32C.**—No later than one month before the end of each financial year, the Bank shall prepare and submit to the Minister an estimate of—

- (a) its income from levies and fees imposed by regulations under sections 32D and 32E,
- (b) any other source of funds for the purposes of its powers and functions under the designated enactments and designated statutory instruments, and
- (c) its expenditure in relation to the exercise of those powers and functions, during the next financial year.]

#### **Annotations**

#### **Amendments:**

**F103** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F104[Power to impose levies.

**32D.**—(1) The Commission may make regulations prescribing levies to be paid by persons who are subject to regulation under the designated enactments and designated statutory instruments.

(2) In particular, regulations under subsection (1) may provide for any of the following matters:

- (a) the activities, services or other matters for which specified kinds of levies are payable;
- (b) the persons, or classes of persons, who are required to pay specified kinds of levies;
- (c) the amounts of specified kinds of levies;
- (d) the periods for which, or the dates by which, specified levies are to be paid to the Bank;
- (e) penalties payable by a person who does not pay a levy on time;
- (f) the keeping of records, and the making of returns to the Bank, by persons who are liable to pay a specified levy;
- (g) the collection and recovery of levies.

(3) Regulations made under this section do not take effect until approved by the Minister.

(4) A levy prescribed in relation to credit unions is to be fixed so that the total amount of levy collected or recovered from credit unions does not exceed the total costs incurred by the Bank in performing its functions and exercising its powers under the Credit Union Act 1997.

(5) The Bank may, by proceedings in a court of competent jurisdiction, recover as a debt an amount of levy payable under regulations in force under this section.

(6) The Bank may refund the whole or a part of a levy paid or payable under regulations in force under this section.

(7) The Commission may amend or revoke a regulation made under this section.

(8) An amendment or revocation of regulations made under this section does not take effect until approved by the Minister.

(9) In this section 'levy' does not include a fee.]

#### Annotations

#### Amendments:

**F104** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E52** Power pursuant to section exercised (5.9.2012) by *Central Bank Act 1942 (Section 32D) Regulations 2012* (S.I. No. 350 of 2012) for period 1.01.2012 to 31.12.2012.

**E53** Previous affecting provision: power pursuant to section exercised (16.09.2011) by *Central Bank Act 1942 (Section 32D) Regulations 2011* (S.I. No. 478 of 2011) for period 1.01.2011 to 31.12.2011.

**F105**[Power to prescribe fees.

**32E.—(1)** The Commission may make regulations prescribing fees for the purpose of any enactment that provides, by reference to this section or to section 33K (as in force at any time before the coming into operation of this section), for the payment of a fee.

(2) The Commission may make regulations providing for all or any of the following matters:

(a) the persons, or classes of persons, who are required to pay specified kinds of fees;

(b) the amounts of specified kinds of fees;

(c) the collection of fees.

(3) Regulations of the kind referred to in subsection (2) may be included in regulations made under subsection (1).

(4) Regulations made under this section do not take effect until approved by the Minister.

(5) The Bank may, by proceedings in a court of competent jurisdiction, recover as a debt an amount payable as a fee under regulations in force under this section.

(6) The Bank may refund the whole or a part of a fee paid pursuant to regulations made under this section.

(7) The Commission may amend or revoke a regulation made under this section.

(8) An amendment or revocation of regulations made under this section does not take effect until approved by the Minister.]

#### Annotations

#### Amendments:

**F105** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E54** Power pursuant to section exercised (21.12.2012) by *Central Bank Act 1942 (Section 32E) Transparency Fee Regulations 2012* (S.I. No. 550 of 2012).

**E55** Power pursuant to section exercised (11.11.2011) by *Central Bank Act 1942 (Section 32E) Prospectus Approval Fee Regulations 2011* (S.I. No. 632 of 2011).

**F106**[General fund.

**32F.**—(1) The Bank shall continue to keep and operate the fund called the general fund.

(2) The Bank shall pay into the general fund all money received by the Bank and shall pay from that fund all amounts that it is required to pay.

(3) The expenses incurred by the Bank in performing functions or exercising powers under this or any other Act or law are payable out of the general fund of the Bank, except where otherwise provided by or under this or any other Act.

(4) Any claims on or liabilities to the European Central Bank are to be treated as assets or liabilities of the general fund or any other fund that the Minister by order establishes for that purpose.]

#### Annotations

#### Amendments:

**F106** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F107**[Surplus or deficiency in income of Bank during financial year

**32G.**—(1) If the total sum received by the Bank on account of levies and fees prescribed under sections 32D and 32E during a financial year is greater than the Bank's expenditure on the performance of its functions and the exercise of its powers during that financial year, the Bank—

(a) shall apply the surplus to the performance of those functions and the exercise of those powers in the following financial year, and

(b) shall reduce the levies and fees prescribed in relation to the latter financial year accordingly.

(2) If the sum received by the Bank on account of levies and fees prescribed under sections 32D and 32E during a financial year is less than the Bank's expenditure on the performance of its functions and the exercise of its powers during that financial year, the Bank may prescribe levies and fees in relation to the following financial year sufficient to—

(a) make good the deficiency, and

(b) ensure that the sum received by the Bank on account of such levies and fees during the following financial year fully covers the performance of its functions and the exercise of its powers during both those financial years.]

#### Annotations

#### Amendments:

**F107** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F108**[Bank's surplus income.

**32H.**—(1) The Bank shall pay its surplus income as and when determined under this section into the Exchequer in such manner as the Minister directs and may at any time pending such determination pay into the Exchequer such sums on account of surplus income as may be agreed on by the Minister and the Bank.

(2) The Minister may, after consultation with the Bank, make regulations providing for the periodic determination of the Bank's surplus income and, in particular, such regulations may—

(a) enable provision to be made for reserves, depreciation and other similar matters before the surplus income is determined, and

(b) provide for any matter arising from the implementation of Chapters VI, VIII and IX of the ESCB Statute.

(3) In exercising the powers conferred by this section, the Minister is required to have regard to the functions imposed and the powers conferred on the Bank by or under the Rome Treaty and the ESCB Statute.]

#### Annotations

#### Amendments:

**F108** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F109**[Provision of funds by Bank to meet shortfall.

**32I.**—(1) If at any time it appears to the Commission that the funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E are, or

are likely to be, insufficient to enable the Bank to properly perform its regulatory functions, the Bank may apply to the performance of those functions such amount as the Commission considers necessary.

(2) The Bank may apply an amount under subsection (1) only if the Minister so approves.

(3) Before deciding whether or not to give approval under subsection (2), the Minister shall consult the Governor. The Governor may express his or her opinion on the amount of funds concerned, so far as it could affect—

(a) the carrying out by the Bank of its obligations with respect to the promotion of the financial stability of the State, and

(b) the performance of the functions of the Bank in its capacity as a member of the European System of Central Banks.

(4) In approving the application of an amount of funds under subsection (2), the Minister shall have regard to the functions and powers of the Bank under the Rome Treaty and the ESCB Statute.]

#### Annotations

#### Amendments:

**F109** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F110**[Accounting and other records of Bank.

**32J.**—(1) The Bank shall keep all proper accounting records of all its transactions.

(2) The Bank's accounts shall show separately—

(a) receipts from funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E and expenditure on the performance of its functions and the exercise of its powers,

(b) its income from penalties imposed under paragraphs (c) and (f) of section 33AQ(3), and

(c) other receipts and expenditure.

(3) Within 6 months after the end of each financial year, the Bank shall prepare and transmit to the Comptroller and Auditor General a statement of accounts for the financial year concerned. The statement shall be in a form approved by the Minister after consulting the Bank. The approval of a form of statement of accounts under this subsection remains in force until superseded by the approval of another form of statement of accounts.

(4) The statement shall show separately—

(a) receipts from funds raised from levies and fees prescribed by regulations in force under sections 32D and 32E and expenditure on the performance of its functions and the exercise of its powers, and

(b) other receipts and expenditure.

(5) The Comptroller and Auditor General shall audit, certify and report on the statement of accounts and, as soon as practicable after completing the report, give it and the statement of accounts to the Minister.



(6) As soon as practicable after being given the report and statement of accounts, the Minister shall arrange for copies of those documents to be laid before each House of the Oireachtas.

(7) The accounts of the Bank may be audited in accordance with Article 27 of the ESCB Statute and, for that purpose, the Bank shall provide any auditors appointed in accordance with that Article with full information, books and records.

(8) The Bank shall keep its accounting records for at least 6 years.]

#### Annotations

#### Amendments:

**F110** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F111**[Report of operations, etc., by Bank.

**32K.**—(1) Within 6 months after the end of each financial year, the Bank shall prepare a report of its operations during the year and present the report to the Minister.

(2) The report shall include a statement of the role of each advisory group established by the Bank under section 18E, and a summary of the work of each such advisory group during the relevant financial year.

(3) As soon as practicable after being given the report and statement of accounts, the Minister shall arrange for copies of those documents to be laid before each House of the Oireachtas, together with any other reports required to be included in or attached to the report.

(4) The Bank shall give to the Minister for publication in the *Iris Oifigiúil* such periodical returns concerning the transactions of the Bank as the Minister directs from time to time.]

#### Annotations

#### Amendments:

**F111** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### F112[Chapter 2A

#### Accountability

Annual performance statements.

**32L.**—(1) No later than 30 April in each year, the Bank shall prepare a statement relating to the Bank's performance in regulating financial services (in this section called a 'performance statement').

(2) A performance statement is to be in 3 parts—

(a) details, including the aims and objectives, of regulatory activity planned for the current year (in this subsection called a 'Regulatory Performance Plan'),

(b) a review of the Bank's regulatory performance during the preceding year having regard to the Regulatory Performance Plan for that year and any other relevant matters, and

(c) the report of any international peer review carried out during the preceding year under section 32M.

(3) The review of the Bank's regulatory performance required by subsection (2)(b) shall include details of the activities carried out during the relevant year by—

(a) the part of the Bank responsible for internal audit, and

(b) the Registrar of Credit Unions.

(4) A performance statement is to be in the form, and is to relate to the matters, that the Minister directs, but shall not relate to the exercise by the Governor of his or her functions under the ESCB Statute.

(5) Within one month after receiving a performance statement, the Minister will lay it before each House of the Oireachtas.

(6) If the Governor or a Head of Function is requested by a Committee of the Oireachtas to—

(a) attend before the Committee, and

(b) provide that Committee with information relating to the Bank's performance statement,

the Governor or Head of Function shall—

(i) appear before the Committee, and

(ii) subject to section 33AK(1A), provide the Committee with such information relating to the performance statement as the Committee requires.

(7) The reference in subsection (6) to a Committee of the Oireachtas is a reference to a Committee appointed by either House or by both Houses jointly to examine matters relating to the Bank and includes a subcommittee of such a Committee, but does not include the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann.]

#### Annotations

#### Amendments:

**F112** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F113**[International peer review of regulatory performance.

**32M.**—At least every 4 years the Bank shall make appropriate arrangements for—

(a) another national central bank, or

(b) another person or body certified by the Governor, after consultation with the Minister, as appropriate,

to carry out a review of the Bank's performance of its regulatory functions.]

#### Annotations

#### Amendments:

**F113** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F114[IRISH FINANCIAL SERVICES REGULATORY  
AUTHORITY

Chapter 1

*Constitution, functions and powers of  
Regulatory Authority*

Interpretation:  
Part IIIB and  
Schedule 3.

**33A.—**F115[...]

**Annotations**

**Amendments:**

**F114** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F115** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F116[Establish-  
ment of Regula-  
tory Authority.

**33B.—**F117[...]

**Annotations**

**Amendments:**

**F116** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F117** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F118[Functions  
and powers of  
Regulatory  
Authority.

**33C.—**F119[...]

**Annotations**

**Amendments:**

**F118** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F119** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**Editorial Notes:**

**E56** Previous affecting provision: functions under section performed (30.09.2009) by *Credit Union Act 1997 (Section 85) Rules 2009* (S.I. No. 344 of 2009).

- E57** Previous affecting provision: subs. (1)(ab) inserted (29.01.2007) by *Investment Funds, Companies and Miscellaneous Provisions Act 2006* (41/2006), s. 34(1), S.I. No. 23 of 2007; substituted and deleted as per F-note above.
- E58** Previous affecting provision: subs. (9) substituted and subss. (9A) and (9B) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 8, S.I. No. 455 of 2004; substituted and deleted as per F-note above.
- E59** Previous affecting provision: power pursuant to subs. (2) exercised (18.08.2003) by *Central Bank Act 1942 (Schedule 2) (Amendment) Order 2003* (S.I. No. 371 of 2003).

**F120**[Regulatory Authority to comply with certain guide-lines. **33D.**—F121[...]]

#### Annotations

#### Amendments:

- F120** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F121** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F122**[Membership of Regulatory Authority. **33E.**—F123[...]]

#### Annotations

#### Amendments:

- F122** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F123** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

- E60** Previous affecting provision: subs. (1) amended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 231 and sch. 3 pt. 2 items 7-9, S.I. No. 545 of 2009; substituted and deleted as per F-note above.

**F124**[Appointment of Chief Executive of the Regulatory Authority. **33F.**—F125[...]]

**Annotations****Amendments:**

**F124** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F125** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F126[Appoint-  
ment of acting  
Chief Executive in  
certain cases.

**33G.—**F127[...]]

**Annotations****Amendments:**

**F126** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F127** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F128[Responsibil-  
ities of Chief  
Executive of the  
Regulatory  
Authority.

**33H.—**F129[...]]

**Annotations****Amendments:**

**F128** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F129** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F130[Chairperson  
of the Regulatory  
Authority.

**33I.—**F131[...]]

**Annotations****Amendments:**

**F130** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F131** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**Editorial Notes:**

- E61** Previous affecting provision: subs. (1A) inserted (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 231 and sch. 3, pt. 2, item 10, S.I. No. 545 of 2009; substituted and deleted as per F-note above.

F132[Power to  
impose levies.

**33J.—F133[...]**

**Annotations****Amendments:**

- F132** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F133** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**Modifications (not altering text):**

- C17** Application of section extended (7.12.2010) by *European Communities (Credit Rating Agencies) Regulations 2010* (S.I. No. 247 of 2010), reg. 5(1), commenced as per reg. 2(2).

*Supervisory levies and fees.*

5. (1) The powers of the Chief Executive of the Bank to prescribe supervisory levies under section 33J of the Central Bank Act 1942 (No. 22 of 1942) extend to the prescription of a supervisory levy to be paid by a credit rating agency that is established in the State as if the EC Regulation were a designated enactment.

...

**Editorial Notes:**

- E62** Power pursuant to section exercised (30.09.2010) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2010* (S.I. No. 487 of 2010); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1) (S.I. No. 469 of 2010).
- E63** Previous affecting provision: power pursuant to section exercised (31.07.2009) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2009* (S.I. No. 300 of 2009).
- E64** Previous affecting provision: power pursuant to section exercised (31.12.2008) by *Central Bank Act 1942 (Section 33J) Regulations 2008* (S.I. No. 598 of 2008).
- E65** Previous affecting provision: power pursuant to section exercised (22.07.2008) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2008* (S.I. No. 297 of 2008).
- E66** Previous affecting provision: power pursuant to section exercised (15.06.2007) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2007* (S.I. No. 294 of 2007).
- E67** Previous affecting provision: power pursuant to subs. (8) exercised (10.10.2006) by *Central Bank Act 1942 (Sections 33J and 33K)(Amendment) Regulations 2006* (S.I. No. 528 of 2006).
- E68** Previous affecting provision: power pursuant to section exercised (24.07.2006) by *Central Bank Act 1942 (Sections 33J And 33K) Regulations 2006* (S.I. No. 388 of 2006).
- E69** Previous affecting provision: power pursuant to section exercised (30.05.2005) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2005* (S.I. No. 273 of 2005).

**E70** Previous affecting provision: power pursuant to section exercised (16.07.2004) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2004* (S.I. No. 447 of 2004); revoked (16.09.2011) by *Central Bank Act 1942 (Section 32D) Regulations 2011* (S.I. No. 478 of 2011), reg. 11, commenced on enactment.

**F134**[Power of Chief Executive to prescribe fees. **33K.**—**F135**[...]]

#### Annotations

#### Amendments:

**F134** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F135** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E71** Subs. (5)(ao), (ap) substituted and inserted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110(1) and sch. 2 pt. 1 item 3, S.I. No. 548 of 2011; amendment not possible as section previously deleted.

**E72** Power pursuant to section exercised (30.09.2010) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2010* (S.I. No. 487 of 2010); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1) (S.I. No. 469 of 2010).

**E73** Previous affecting provision: application of section extended (7.12.2010) by *European Communities (Credit Rating Agencies) Regulations 2010* (S.I. No. 247 of 2010), reg. 5(2), commenced as per reg. 2(2).

**E74** Previous affecting provision: power pursuant to section exercised (31.07.2009) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2009* (S.I. No. 300 of 2009).

**E75** Previous affecting provision: power pursuant to section exercised (22.07.2008) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2008* (S.I. No. 297 of 2008).

**E77** Previous affecting provision: power pursuant to section exercised (15.06.2007) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2007* (S.I. No. 294 of 2007).

**E79** Previous affecting provision: power pursuant to section exercised (24.07.2006) by *Central Bank Act 1942 (Sections 33J And 33K) Regulations 2006* (S.I. No. 388 of 2006).

**E80** Previous affecting provision: power pursuant to section exercised (30.05.2005) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2005* (S.I. No. 273 of 2005).

**E81** Previous affecting provision: power pursuant to section exercised (1.07.2005) by *Central Bank Act 1942 (Section 33K) Regulations 2005* (S.I. No. 325 of 2005); revoked (11.11.2011) by *Central Bank Act 1942 (Section 32E) Prospectus Approval Fee Regulations 2011* (S.I. No. 632 of 2011), reg. 2.

**E82** Previous affecting provision: power pursuant to section exercised (16.07.2004) by *Central Bank Act 1942 (Sections 33J and 33K) Regulations 2004* (S.I. No. 447 of 2004); revoked (16.09.2011) by *Central Bank Act 1942 (Section 32D) Regulations 2011* (S.I. No. 478 of 2011), reg. 11, commenced on enactment.

F136[Provision of funds by Bank to Regulatory Authority to meet shortfall. **33L.**—F137[...]]

#### Annotations

#### Amendments:

**F136** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F137** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F138[Regulatory Authority to keep proper accounts. **33M.**—F139[...]]

#### Annotations

#### Amendments:

**F138** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F139** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F140[Regulatory Authority to prepare annual estimate of income and expenditure. **33N.**—F141[...]]

#### Annotations

#### Amendments:

**F140** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F141** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E83** Previous affecting provision: subs. (1) amended (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(c), S.I. No. 730 of 2007; substituted and deleted as per F-note above.

**E84** Previous affecting provision: application of section restricted (28.11.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) (No. 2) Regulations 2003* (S.I. No. 650 of 2003), regs. 3(1) and (2), commenced on enactment; superseded as per F-note above.



F142[Regulatory Authority to provide Minister with annual report and other reports. **33O.—**F143[...]]

#### Annotations

#### Amendments:

**F142** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F143** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F144[Regulatory Authority to prepare strategic plan. **33P.—**F145[...]]

#### Annotations

#### Amendments:

**F144** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F145** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E85** Previous affecting provision: application of section restricted (28.11.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) (No. 2) Regulations 2003* (S.I. No. 650 of 2003), regs. 3(1) and (3), commenced on enactment; superseded as per F-note above.

F146[Chapter 2

*Consumer Director*

Appointment of Consumer Director. **33Q.—**F147[...]]

#### Annotations

#### Amendments:

**F146** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F147** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F148[Appoint-  
ment of acting  
Consumer Direc-  
tor in certain  
cases.

33R.—F149[...]

#### Annotations

#### Amendments:

**F148** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F149** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F150[Responsibil-  
ities of Consumer  
Director.

33S.—F151[...]

#### Annotations

#### Amendments:

**F150** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F151** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E86** Power pursuant to section exercised (30.04.2008) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2008* (S.I. No. 125 of 2008), commenced as per reg. 2; continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E87** Power pursuant to section exercised (23.03.2007) by *Consumer Credit Act 1995 (Section 2) (No. 2) Regulations 2007* (S.I. No. 138 of 2007); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E88** Power pursuant to section exercised (5.03.2007) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2007* (S.I. No. 100 of 2007); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E89** Power pursuant to section exercised (21.12.2006) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2006* (S.I. No. 687 of 2006); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E90** Power pursuant to section exercised (20.07.2005) by *Consumer Credit Act 1995 (Section 2) (Amendment) Regulations 2005* (S.I. No. 372 of 2005); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E91** Power pursuant to section exercised (16.11.2004) by *Consumer Credit Act 1995 (Section 2) (No. 3) Regulations 2004* (S.I. No. 715 of 2004); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

**E92** Power pursuant to section exercised (1.07.2004) by *Consumer Credit Act 1995 (Section 2) (No. 2) Regulations 2004* (S.I. No. 414 of 2004); continued in force (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 7(1), S.I. No. 469 of 2010.

- E93** Previous affecting provision: power pursuant to section exercised (24.09.2007) by *Consumer Credit Act 1995 (Section 2) (No. 4) Regulations 2007* (S.I. No. 690 of 2007); repealed (15.08.2012) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2012* (S.I. No. 322 of 2012), reg. 5.
- E94** Previous affecting provision: power pursuant to section exercised (14.05.2007) by *Consumer Credit Act 1995 (Section 2) (No. 4) Regulations 2007* (S.I. No. 751 of 2007); repealed (15.08.2012) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2012* (S.I. No. 322 of 2012), reg. 5.
- E95** Previous affecting provision: subs. (2)(f) substituted and paras. (g), (h) inserted (1.05.2007) by *Consumer Protection Act 2007 (19/2007)*, s. 94(4), S.I. No. 178 of 2007; substituted and deleted as per F-note above.
- E96** Previous affecting provision: power pursuant to section exercised (30.03.2007) by *Consumer Credit Act 1995 (Section 2) (No. 3) Regulations 2007* (S.I. No. 139 of 2007); repealed (15.08.2012) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2012* (S.I. No. 322 of 2012), reg. 5.
- E97** Previous affecting provision: power pursuant to section exercised (20.07.2005) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2005* (S.I. No. 371 of 2005); repealed (15.08.2012) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2012* (S.I. No. 322 of 2012), reg. 5.
- E98** Previous affecting provision: power pursuant to section exercised (4.03.2004) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2004* (S.I. No. 93 of 2004); repealed (30.04.2008) by *Consumer Credit Act 1995 (Section 2) (No. 1) Regulations 2008* (S.I. No. 125 of 2008), reg. 5.

**F152**[Supplementary powers of Consumer Director with respect to carrying out the responsibilities imposed under section 33S. **33SA.—F153[...]**

#### Annotations

#### Amendments:

- F152** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004 (21/2004)*, s. 6, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.
- F153** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010 (23/2010)*, s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

**F154**[Consumer Director to prepare annual report. **33T.—F155[...]**

#### Annotations

#### Amendments:

- F154** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003 (12/2003)*, s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F155** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010 (23/2010)*, s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F156[Consumer Director to provide information, reports and advice to Chief Executive. **33U.**—F157[...]]

#### Annotations

#### Amendments:

**F156** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F157** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

F158[Consumer Director to prepare strategic plan. **33V.**—F159[...]]

#### Annotations

#### Amendments:

**F158** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F159** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 39, S.I. No. 469 of 2010.

#### Editorial Notes:

**E99** Previous affecting provision: application of section restricted (28.11.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) (No. 2) Regulations 2003* (S.I. No. 650 of 2003), regs. 3(1) and (4), commenced on enactment; superseded as per F-note above.

### F160[CHAPTER 3

#### *Registrar of Credit Unions*

Interpretation: Chapter 3. **33W.**—In this chapter, ‘Registrar’ means the Registrar of Credit Unions.]

#### Annotations

#### Amendments:

**F160** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26 S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

F161[Appointment of Registrar of Credit Unions. **33X.**—(1) The F162[Bank shall] appoint a person as the Registrar of Credit Unions. (2) A person appointed as Registrar holds office for a period not exceeding 5 years from the date of appointment, unless the person previously ceases to hold that office as provided by this section.

(3) The F162[Bank] may appoint a person holding office as Registrar for a further period, not exceeding 5 years, to take effect at the end of the person's current period of appointment. This subsection applies whether the person was appointed under subsection (1) or this subsection.

(4) The appointment of a person as Registrar does not take effect until the Minister approves it.

(5) A person is not eligible for appointment as Registrar 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 or is nominated as a member of Seanad Éireann, or

(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 or is, with the person's consent, nominated as a candidate for election as such a member.

(6) A person appointed as Registrar holds office on such conditions of employment as are specified in the person's document of appointment or are later agreed between the person and the F162[Bank].

(7) The Registrar may engage in other remunerative employment only with the consent of the F162[Bank].

(8) A person ceases to hold office as Registrar if the person—

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by notice in writing addressed to F162[Bank], or

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

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

(f) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or

(g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or

(h) becomes physically or mentally incapable of performing the duties of Registrar, or

(i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or

(j) is removed from office under subsection (9).

(9) The F162[Bank] may (but only after consulting the Minister) remove or suspend the Registrar from office, but only for reasons notified in writing to the Registrar.]

**Annotations****Amendments:**

**F161** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26 S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F162** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, items 40-45, S.I. No. 469 of 2010.

**F163**[Appoint-  
ment of acting  
Registrar of Cred-  
it Unions in  
certain cases.

**33Y.**—(1) **F164**[The Governor, with the consent of the Commission,] may, from time to time, appoint a qualified person to act in the office of Registrar—

(a) during the illness or absence of the holder of that office, or

(b) while the holder is suspended from office, or

(c) during a vacancy in that office.

A person so appointed has, while acting as Registrar, all the responsibilities and powers of that office.

(2) If a person is to be appointed under this section for a period of more than 6 months, the appointment does not take effect until the Minister approves it.

(3) The **F165**[Bank] may, at any time, remove from office a person who is appointed under this section as Registrar.

(4) A person appointed under this section is entitled to be paid such remuneration (including travelling and subsistence allowances) as the **F166**[Bank] determines from time to time.

(5) A person is a qualified person for the purposes of this section if the person is an employee of the Bank.]

**Annotations****Amendments:**

**F163** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F164** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 46, S.I. No. 469 of 2010.

**F165** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 47, S.I. No. 469 of 2010.

**F166** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 48, S.I. No. 469 of 2010.

**F167**[Signature  
of Registrar of  
Credit Unions.

**33Z.**—A signature purporting to be that of the Registrar is, in the absence of evidence to the contrary, to be presumed for all purposes to be that of the holder of that office.]

**Annotations****Amendments:**

**F167** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F168** [Responsibilities and powers of Registrar of Credit Unions.]

**33AA.**—(1) The Registrar is responsible—

- (a) as the delegate of the **F169** [Bank], for managing the performance and exercise of the functions and powers of the Bank under the Credit Union Act 1997, and
- (b) if management of the performance and exercise of the functions and powers of the Bank under any other Act or law are delegated to the Registrar, for managing the performance and exercise of those functions and powers.

(2) The Registrar has power to do whatever is necessary for or in connection with, or reasonably incidental to, carrying out the Registrar's responsibilities.

(3) In carrying out or exercising the Registrar's responsibilities or powers, the Registrar shall, as far as reasonably practicable, ensure that the resources of the **F169** [Bank] allocated for carrying out those responsibilities or exercising powers are used effectively, efficiently and economically.

**F170** [(4) In carrying out the responsibilities and exercising the powers imposed or conferred by this section, the Registrar, through the Head of Financial Regulation, is subject to the control of the Bank and shall comply with any directions by the Commission with respect to the carrying out of those responsibilities or the exercise of those powers.

(5) A direction given in accordance with subsection (4) shall not be inconsistent with—

- (a) in relation to a function or power to which subsection (1)(a) relates, the Credit Union Act 1997, and
- (b) in relation to a function or power the management of which stands delegated to the Registrar under subsection (1)(b), any other relevant Act or law.

(6) In issuing directions to the Registrar under subsection (4) which relate to the exercise of the responsibilities and powers referred to in subsection (1)(a), the Bank shall have regard to the particular nature of credit unions, and in particular by reference to—

- (a) the conditions for the registration of a credit union set out in section 6 of the Credit Union Act 1997 and to the objects and common bonds referred to in that section, and
- (b) the voluntary ethos of credit unions.

(7) The Bank may, from time to time, issue to the Registrar guidelines, not inconsistent with any law, in relation to consultation and co-operation with the bodies and persons specified in subsection (8) on matters concerning the functions and powers of those bodies and persons. The Registrar shall comply with any such guidelines.

(8) The bodies and persons referred to in subsection (7) are the following:

- (a) the Bank;
- (b) the Commission;

(c) the Governor;

(d) the officers and employees of the Bank.

(9) The Registrar shall provide the Head of Financial Regulation with such information and assistance as the Head of Financial Regulation requests in relation to any complaint to the Bank about the conduct of a credit union.]]

#### Annotations

##### Amendments:

**F168** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F169** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, items 49 and 50, S.I. No. 469 of 2010.

**F170** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 51, S.I. No. 469 of 2010.

**F171**[Bank to provide Registrar with adequate funds.

**33AB.**—(1) The Bank shall provide the Registrar with such funds as the Bank considers necessary to enable the Registrar to perform the functions and exercise the powers of the Registrar.

(2) The provision of funds under this section is subject to such conditions as the Bank thinks fit to impose.]

#### Annotations

##### Amendments:

**F171** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 52, S.I. No. 469 of 2010.

##### Editorial Notes:

**E100** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003; substituted as per F-note above.

**F172**[Registrar to prepare annual report.

**33AC.**—(1) The Registrar shall, **F173**[within 9 months after the end of each financial year]—

(a) prepare an annual report specifying the activities of the Registrar during that year, and

(b) submit the report to the **F174**[Bank].

**F175**[(2) The Head of Financial Regulation may direct the Registrar as to the form of the report and the matters that the report shall deal with. The Registrar shall comply with any such direction.]]



**Annotations****Amendments:**

- F172** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F173** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 7, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.
- F174** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 53, S.I. No. 469 of 2010.
- F175** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 54, S.I. No. 469 of 2010.

**F176**[Registrar to provide information, reports and advice to Head of Financial Regulation.]

**33AD.**—The Registrar shall provide the Head of Financial Regulation with such information relating to the performance and exercise of the Registrar's responsibilities and powers as the Head of Financial Regulation requires from time to time. That information may include (but is not limited to) information relating to—

- (a) the use by the Registrar of the resources of the Bank that have been allocated for the performance and exercise of those responsibilities and powers, and
- (b) the value of outcomes and outputs derived from the use of those resources.]

**Annotations****Amendments:**

- F176** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 55, S.I. No. 469 of 2010.

**Editorial Notes:**

- E101** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003; substituted as per F-note above.

**F177**[Registrar to prepare work plan.]

**33AE.**—(1) The Registrar shall, at least 3 months before the beginning of each financial year—

- (a) prepare for the year a draft work plan that complies with this section, and
  - (b) submit the draft plan to the Bank for approval.
- (2) A draft work plan shall specify—
- (a) the objectives of the Registrar for the financial year concerned,
  - (b) the nature and scope of the activities to be undertaken,
  - (c) the strategies and policies for achieving those objectives and how the resources allocated to the Registrar are proposed to be used, and
  - (d) targets and criteria for assessing the performance of the Registrar.

(3) If the Head of Financial Regulation has notified the Registrar of any requirements with respect to the form in which a draft work plan is to be prepared, the Registrar shall take such steps as are necessary to ensure that the plan complies with those requirements.

(4) The Bank may approve a work plan either with or without amendment.

(5) On being approved under subsection (4), a draft work plan prepared for a financial year becomes the work plan for the Registrar for that year. The Registrar shall take all reasonably practical steps to implement the plan.]

#### Annotations

#### Amendments:

**F177** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 56, S.I. No. 469 of 2010.

#### Editorial Notes:

**E102** Previous affecting provision: application of section restricted (28.11.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) (No. 2) Regulations 2003* (S.I. No. 650 of 2003), regs. 3(1) and (5), commenced on enactment; superseded as per F-note above.

**E103** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003; substituted as per F-note above.

**F178**[Registrar to keep proper accounts.

**33AF.**—(1) The Registrar shall keep accounting records that properly record and explain the Registrar's transactions.

(2) The Registrar shall, as soon as practicable after the end of each financial year, provide the Bank with sufficient information about the financial affairs of the Registrar as will enable the Bank to comply with section 6H(2) for that year.

(3) The Registrar shall ensure that the accounting records kept under this section comply with any accounting standards notified to the Registrar in writing by the **F179**[Head of Financial Regulation].

(4) The Registrar is required to retain the accounting records for at least 6 years after the transactions to which they relate are completed.

(5) The Registrar is required to make the accounting records available at all reasonable times for inspection by any member of the **F180**[Commission].]

#### Annotations

#### Amendments:

**F178** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F179** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 57, S.I. No. 469 of 2010.

**F180** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 58, S.I. No. 469 of 2010.

**F181**[PART IIIB.

PROVISIONS APPLICABLE TO THE BANK AND ITS CONSTITUENT PARTS]

**Annotations****Amendments:**

**F181** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

**E104** Sanctions imposed under Part may be notified (14.01.2005) in accordance with *European Communities (Insurance Mediation) Regulations 2005* (S.I. No. 13 of 2005), reg. 27.

**F181**[Superannuation schemes for the benefit of officers and employees of Bank and its constituent parts.

**33AG.**—(1) This section applies to and in respect of the following persons:

(a) the Governor and former Governors;

**F182**[(b) former Directors;

(ba) appointed members and former appointed members of the Commission;

(bb) *ex-officio* members of the Commission and former *ex-officio* members of the Commission;

(c) former members of the Regulatory Authority;

(ca) officers and former officers of the Bank;]

(d) employees and former employees of the Bank.

(2) The Bank may establish and operate one or more superannuation schemes under which superannuation benefits are payable on the retirement or death of persons to whom this section applies. However, such a scheme does not take effect until it has been approved by the Minister.

(3) A superannuation scheme established under this section is to be embodied in rules made by the Bank. Those rules must provide for the operation of the scheme and, in particular, for—

(a) the making of contributions (including contributions by the Bank) towards the superannuation benefits to be paid under the scheme, and

(b) the payment of those benefits to or in respect of persons to whom this section applies.

(4) As soon as practicable after establishing a superannuation scheme or superannuation schemes under this section, the Bank shall establish a trust fund for holding contributions made to the scheme or to each of those schemes and for the payment of superannuation benefits under the scheme or schemes. However, if the Bank establishes two or more such superannuation schemes, a single trust fund may be established in respect of all or a group of those schemes.

(5) As soon as practicable after establishing a trust fund under this section, the Bank shall appoint two or more trustees to hold and operate the trust fund.

(6) The trustees of the trust fund relating to a superannuation scheme established under this section shall, from that fund, pay to or in respect of persons to whom this section applies on their retirement or death the appropriate superannuation benefits under the scheme.

(7) The Bank shall arrange for all rules made under this section to be laid before each House of the Oireachtas as soon as practicable after they are made. If either House, within the 21 days on which it has sat after the rules are laid before it, passes

a resolution annulling the rules, the rules are accordingly annulled, but without affecting the validity of anything previously done under them.

(8) In this section—

‘retirement’, in relation to a person referred to in F183[paragraph (a), (b), (ba) or (c) of subsection (1),] includes not being re-appointed after the end of the person’s term of office;

‘superannuation benefit’ means a superannuation benefit payable to or in respect of a person to whom this section applies or, where such a person has died, to the spouse F184[or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010] or a child of that person, and includes a pension, a retirement allowance and a gratuity.]

#### Annotations

##### Amendments:

**F181** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F182** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 59, S.I. No. 469 of 2010.

**F183** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 60, S.I. No. 469 of 2010.

**F184** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 99(2) and sch., pt. 2, item 10, S.I. No. 648 of 2010.

##### Editorial Notes:

**E105** Power pursuant to section exercised (1.10.2008) by *Central Bank and Financial Services Authority of Ireland Superannuation Scheme 2008* (S.I. No. 99 of 2008).

**F185**[Special provisions for superannuation schemes established under Currency Act 1927 and Central Bank Act 1989.

**33AH.**—(1) Despite the repeal of the Currency Act 1927 and section 15 of the Central Bank Act 1989, the following schemes continue to have effect:

(a) any scheme operating under section 31(4) of the Currency Act 1927, immediately before the commencement of this section;

(b) any scheme operating under section 15 of the Central Bank Act 1989, immediately before that commencement.

(2) A scheme continued by this section is taken to be rules for the purposes of the Interpretation Act 1937.

(3) The Bank may, with the approval of the Minister, merge with a superannuation scheme established under section 33AG a scheme continued by this section. However, the Minister may give that approval only if satisfied that the persons who have accrued rights under the scheme continued by this section will have benefits under the merged scheme that are no less favourable than those under the scheme so continued.

(4) The Bank may take such action as is necessary to effect a merger under subsection (3).]

**Annotations****Amendments:**

**F185** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

**E106** Power pursuant to section exercised (1.10.2008) by *Central Bank and Financial Services Authority of Ireland Superannuation Scheme 2008* (S.I. No. 99 of 2008).

**F186**[Provisions applicable to superannuation schemes established under section 33AG or continued under section 33AH.

**33AI.**—(1) If the Revenue Commissioners so determine, a superannuation scheme established under section 33AG or continued under section 33AH is an exempt approved scheme for the purposes of Chapter 1 of Part 30 of the Taxes Consolidation Act 1997.

(2) The Minister may determine a trust fund established for the purposes of a superannuation scheme established under section 33AG or continued under section 33AH to be public funds for the purposes of the Superannuation Act 1892.

(3) Section 30 of the Pensions (Increase) Act 1964, applies to a superannuation scheme established under section 33AG or continued under section 33AH.

(4) A superannuation benefit is not payable under a superannuation scheme established under section 33AG or continued under section 33AH if the benefit relates to the same period of service as that in respect of which a superannuation benefit has been paid under another such scheme.

(5) For the purposes of this section, ‘superannuation benefit’ has the same meaning as in section 33AG.]

**Annotations****Amendments:**

**F186** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F187**[Bank and associates not liable for certain acts and omissions.

**33AJ.**—(1) This section applies to the following persons:

(a) the Bank;

**F188**[(b) the Governor;

(ba) the Heads of Function;

(bb) the Secretary General of the Department of Finance, in his or her capacity as an *ex-officio* member of the Commission;

(bc) the appointed members of the Commission;]

(c) the Registrar of Credit Unions;

(d) the Registrar of the Appeals Tribunal;

(e) employees of the Bank;

(f) agents of the Bank **F189**[...].

(2) A person to whom this section applies is not liable for damages for anything done or omitted in the performance or purported performance or exercise of any of its functions or powers, unless it is proved that the act or omission was in bad faith.

(3) The fact that the Bank has authorised or revoked the authorisation, or regulates the activities, of a person, under any of its functions is not a warranty by the Bank as to the person's solvency or performance.

(4) The fact that the Bank in performing any of its functions—

(a) has approved or revoked the approval, or regulates the affairs or activities, of a stock exchange or a financial futures and options exchange, or

(b) has approved, amended, revoked or imposed rules, or has consented or refused to consent to amendments of rules,

is not a warranty by the Bank as to the solvency or performance of the exchange or any member of the exchange.

(5) Neither the State nor the Bank is liable for losses incurred because of the insolvency, default or performance of a person or body referred to in subsection (3) or (4).

(6) Nothing in subsections (3) to (5) limits the effect of subsection (2).

**F190**[(7) In this section, 'agent' includes a person appointed or authorised by the Bank, the Governor or the **F191**[Head of Financial Regulation] to perform any function or exercise a power under the Central Bank Acts or any other enactment.]]

#### Annotations

#### Amendments:

**F187** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F188** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 61, S.I. No. 469 of 2010.

**F189** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 62, S.I. No. 469 of 2010.

**F190** Substituted (6.07.2005) by *Investment Funds, Companies and Miscellaneous Provisions Act 2005* (12/2005), s. 35, S.I. No. 323 of 2005.

**F191** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 63, S.I. No. 469 of 2010.

**F192**[Disclosure of information.

**F193**[**33AK.**—(1) This subsection applies to the following persons:

- (a) the Governor and every former Governor;
- (b) every former Director of the Central Bank and Financial Services Authority of Ireland;
- (c) every former member of the Irish Financial Services Regulatory Authority;
- (d) every member and every former member of the Commission;
- (e) every Head of Function and every former Head of Function;
- (f) the Registrar of Credit Unions and every former Registrar of Credit Unions;

- (g) every other officer or employee and every other former officer or employee of the Bank;
- (h) every person who is or was formerly employed as a consultant, auditor or in any other capacity by the Bank;
- (i) every person to whom this subsection (as in force immediately before the amendment of this section by the *Central Bank Reform Act 2010*) applied immediately before that coming into operation.

(1A) A person to whom subsection (1) applies shall not disclose confidential information concerning—

- (a) the business of any person or body whether corporate or incorporate that has come to the person's knowledge through the person's office or employment with the Bank, or
- (b) any matter arising in connection with the performance of the functions of the Bank or the exercise of its powers,

if such disclosure is prohibited by the Rome Treaty, the ESCB Statute or the Supervisory Directives.]

- (2) (a) If requested by the Bank, the directors or those charged with the direction of a supervised entity shall, in accordance with paragraph (b), inform the Bank on the extent of any disclosure duly made by or on behalf of them or the entity to any authority, whether within the State or otherwise.
  - (b) Where a request is made under paragraph (a), the directors or those charged with the direction of a supervised entity shall give to the Bank all the information so requested that is in their possession or under their control, within—
    - (i) 30 days of receipt of the request, or
    - (ii) such longer period as the Bank may allow when making the request or subsequently.
  - (c) In responding to a request for information under this subsection, the directors or those charged with the direction of the supervised entity concerned shall exercise due diligence and shall not, by any act or omission, give or cause to be given to the Bank false or misleading information.
- (3) (a) Subject to F194[subsection (1A)] and paragraph (b), the Bank shall report, as appropriate, to—
- (i) the Garda Síochána, or
  - (ii) the Revenue Commissioners, or
  - (iii) the Director of Corporate Enforcement, or
  - (iv) the Competition Authority, or
  - F195[(iva) the National Consumer Agency, or]
  - (v) any other body, whether within the State or otherwise, charged with the detection or investigation of a criminal offence, or
  - (vi) any other body charged with the detection or investigation of a contravention of—
    - (I) the Companies Acts 1963 to 2001, or
    - (II) the Competition Act 2002, or in so far as any commencement order under that Act does not relate to the repeal of provisions of the

Competition Acts 1991 and 1996, which would otherwise be subsisting those Acts,

any information relevant to that body that leads the Bank to suspect that—

(A) a criminal offence may have been committed by a supervised entity, or

(B) a supervised entity may have contravened a provision of an Act to which subparagraph (vi) relates.

**F194**[(b) Paragraph (a) does not apply—

(i) where the Bank is satisfied that the supervised entity has already reported the information concerned to the relevant body, or

(ii) where the information concerned has come into the possession of, or to the knowledge of the Bank, from an authority, in a jurisdiction other than that of the State, duly authorised to exercise functions similar to any one or more of the statutory functions of the Bank.]

(c) Information contained in a report under paragraph (a) may only be used by the body to which it is addressed for the purposes of—

(i) the detection or investigation of a contravention of a provision of an Act to which paragraph (a)(vi) relates, or

(ii) any investigation which may lead to a prosecution for a criminal offence and any prosecution for the alleged offence.

**F196**[(3A) Where a provision of any of the Supervisory Directives, or of any of the following Regulations of the European Parliament and of the Council, requires or permits the Bank to report information to a supervisory body established by that Regulation, the Bank may do so:

(a) Regulation (EU) No. 1092/2010 of 24 November 2010<sup>2</sup>;

(b) Regulation (EU) No. 1093/2010 of 24 November 2010<sup>2</sup>;

(c) Regulation (EU) No. 1094/2010 of 24 November 2010<sup>4</sup>;

(d) Regulation (EU) No. 1095/2010 of 24 November 2010<sup>5</sup>.]

(4) (a) In relation to a supervised entity, where the Bank identifies information—

(i) which it believes is or is likely to be material to an authority concerned with the enforcement of any law, and

(ii) which it believes it is unable, due to the provisions of **F194**[subsection (1A)], to disclose to that authority, and

(iii) in respect of which it is not satisfied that the information has been disclosed to that authority by the directors, or those charged with the direction, of the supervised entity,

then, the Bank shall issue to the directors or others duly charged with the direction of the supervised entity a document, to be known as a Disclosure Issue Notice, and the notice shall—

(I) specify the name of the authority concerned, and

<sup>1</sup> O J No. 331, 15.12.2010, p. 1.

<sup>2</sup> O J No. 331, 15.12.2010, p. 12.

<sup>3</sup> O J No. 331, 15.12.2010, p. 48.

<sup>4</sup> O J No. 331, 15.12.2010, p. 120.



- (II) identify the information that the Bank has identified as causing it to issue the Disclosure Issue Notice.
- (b) The Bank shall advise the authority concerned when a Disclosure Issue Notice is issued.
- (c) Where a Disclosure Issue Notice is issued in respect of a company to which section 158 of the Companies Act 1963 applies (which relates to the directors' report), the directors' report shall comply with subsection (6B) of that section.
- (5) Subject to F194[subsection (1A)], the Bank may disclose confidential information—
- (a) required for the purposes of criminal proceedings, or
- (b) with the consent of the person to whom the information relates and, if the information was obtained from another person, that other person, or
- (c) where the Bank is or was the agent of a person — made to the person as the person's agent, or
- (d) to an authority in a jurisdiction other than that of the State duly authorised to exercise functions similar to any one or more of the statutory functions of the Bank and which has obligations in respect of nondisclosure of information similar to the obligations imposed on the Bank under this section, or
- (e) to any institution of the European Community because of the State's membership of the Community, or to the European Central Bank for the purpose of complying with the Rome Treaty or the ESCB Statute, or
- (f) to an approved stock exchange, within the meaning of the Stock Exchange Act 1995—
- (i) in respect of member firms of the exchange for the purpose of monitoring compliance by member firms with stock exchange rules or with conditions or requirements imposed by the Bank, or with both, or
- (ii) where the Bank considers it necessary to do so, either for the proper and orderly regulation of stock exchanges and their member firms or for the protection of investors, or for both, or
- (g) to a financial futures and options exchange, within the meaning of section 97 of the Central Bank Act 1989, whose rules have been approved by the Bank under Chapter VIII of the Central Bank Act 1989—
- (i) for the purpose of monitoring compliance by the members of that exchange with those rules or with conditions or requirements imposed by the Bank, or with both, or
- (ii) where the Bank considers it necessary to do so for the proper and orderly regulation of futures and options exchanges and their members, or
- (h) to—
- (i) an inspector appointed under the Companies Acts 1963 to 2001, or section 57 of the Stock Exchange Act 1995, or
- (ii) a Committee appointed under section 65 of the Stock Exchange Act 1995, or
- (i) to a body that is a competent authority for the purpose of Council Directive 93/22/EEC of 10 May 1993 or Council Directive 93/6/EEC of 15 March 1993, or

(j) to an approved professional body—

- (i) for the purpose of monitoring compliance by investment business firms with rules or with conditions or requirements imposed by the Bank, or
- (ii) where the Bank considers it necessary to do so for the proper and orderly regulation of investment business firms, or

(k) to—

- (i) a Committee appointed under section 74 of the Investment Intermediaries Act 1995, or
- (ii) a person nominated or approved of by a supervisory authority in accordance with section 51(2) of that Act, or
- (iii) an inspector appointed by the Court under Part VIII of that Act, or

(l) to a product producer in respect of investment business services or investment advice provided by a restricted activity investment product intermediary who holds an appointment in writing from the producer under section 27 of the Investment Intermediaries Act 1995, or

(m) to an officer of statistics (as defined by section 20 of the Statistics Act 1993) in connection with the collection, compilation, analysis or interpretation of data relating to balance of payments, national accounts or any other financial statistics prepared for those purposes, or

(n) F197[...]

(o) to the Comptroller and Auditor General that is required for the performance of that officer's functions or to a person employed in the Office of the Comptroller and Auditor General, or

(p) to an auditor to whom F198[subsections (3) and (4) of section 32I apply], or

(q) to the Minister for the Environment and Local Government in connection with that Minister's functions under the national housing programme with respect to a mortgage lender, or

(r) to the Investor Compensation Company Limited, or to a subsidiary of that company established by the Bank in order to provide administrative services to that company, or

(s) for the purposes of the hearing of an appeal by the Appeals Tribunal, or

(t) for the purpose of complying with a requirement imposed under section 33AM or by or under any other law, or

(u) where the Bank is in receipt of information from an authority in a jurisdiction other than the State duly authorised to exercise functions similar to one or more of the statutory functions of the Bank, made with the permission of that authority, or

(v) to a liquidator, examiner, receiver or any other person or body involved in the liquidation or bankruptcy of a supervised entity in relation to that entity, in accordance with the Supervisory Directives, where applicable, or

(w) to the auditor of a supervised entity in relation to that entity, in accordance with the Supervisory Directives, where applicable, or

(x) to any body established under law for the purposes of overseeing auditors, in accordance with the terms of the Supervisory Directives, where applicable, or

(y) to the Director of Corporate Enforcement for the purpose of any investigation under Part II (as amended) of the Companies Act 1990, or to an officer of the Director for the purposes of the Director's functions and in accordance with the terms of the Supervisory Directives, where applicable, or

F199[(z) to—

(i) the Minister, in accordance with the provisions of the Supervisory Directives in relation to the Minister's responsibility for policy on the supervision of supervised entities,

(ii) authorities in other Member States with responsibilities corresponding to that of the Minister referred to in subparagraph (i), or

(iii) where the Bank is the chair of a college of supervisors established under Regulation 11A of the European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009 (S.I. No. 475 of 2009), to the Committee of European Banking Supervisors,

(za) to an inspector appointed by the Minister and acting on the Minister's behalf, or]

(aa) in accordance with Article 25(7) of Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field, to a body which has the function of providing clearing or settlement services for one of the State's markets where necessary for the performance of its functions, or

(ab) in accordance with the terms of Council Directive 92/49/EEC of 18 June 1992 in respect of insurance undertakings, to bodies which administer compulsory winding up proceedings or guarantee funds, where necessary for the performance of their functions, or

(ac) in accordance with the terms of Council Directive 92/96/EEC of 10 November 1992 in respect of assurance undertakings, to bodies which administer compulsory winding up proceedings or guarantee funds, where necessary for the performance of their functions, or

(ad) to the Pensions Board that is required for the performance of its functions, or

(ae) in summary or collective form, such that individual persons or bodies cannot be identified, in legal proceedings where a supervised entity has been declared bankrupt or is being compulsorily wound up, but only if the information disclosed does not concern the business of any person or body which, to the knowledge of the Bank, may be, or has been involved in attempts to rescue that supervised entity at any stage, or

(af) if the Bank is satisfied that the disclosure is necessary to protect consumers of relevant financial services or to safeguard the interests of the Bank, or

(ag) if the disclosure arises in relation to—

(i) the operations of the Bank in any financial market, or

(ii) the issue by the Bank or the European Central Bank of legal tender, or

(iii) the pursuit by the Bank of the objectives set out in section 6A of the Central Bank Act 1942, or

(ah) to a Tribunal of Inquiry established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2002, or

F200[(aha) to any Commission of Investigation established under the Commissions of Investigation Act 2004, or]

(ai) to the Revenue Commissioners in relation to their functions in a manner such that no supervised entity can be identified, or

(aj) to the Registrar of Friendly Societies that is required for the performance of the Registrar's F201[functions, or]

F202[(aja) to the Credit Union Restructuring Board that is required for the performance of that Board's functions,]

F203[(ak) to the Financial Services Ombudsman that is required for the performance of that Ombudsman's F204[functions, or]]

F205[(al) to the Agency, if the confidential information is required for the performance of the Agency's F206[functions, or]]

F207[(am) to a deposit guarantee scheme established in accordance with Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994<sup>2</sup>, or

(an) to a body or authority that is a competent authority for the purposes of a Regulation of the European Union or European Communities, or a law of the State implementing such a Regulation, that imposes restrictive measures within the framework of the EU Common Foreign and Security Policy, or

(ao) for any purpose connected with the functions of the Bank, the Minister, the Governor or the Head of Financial Regulation or a special manager under the Credit Institutions (Stabilisation) Act 2010.]

(6) Any person or entity to whom confidential information is provided under subsection (3)(a) or (5) shall comply with the provisions on professional secrecy in the Supervisory Directives in holding and dealing with information provided to them by the Bank.

(7) The Bank may, for the purposes of subsection (5)(d) or otherwise, require from a supervised entity any information for the purposes of the Bank assisting an authority to which that subsection relates, but the Bank may only require such information where the information requested is, in the opinion of the Bank, to assist the authority in the carrying out of its regulatory functions.

(8) A person who—

(a) contravenes F194[subsection (1A)], or

(b) contravenes paragraph (a) or (c) of subsection (2), or

(c) fails to comply with section 158(6B) of the Companies Act 1963, for the purpose of a Disclosure Issue Notice issued under subsection (4),

commits an offence and is liable—

(i) on conviction on indictment to a fine not exceeding €30,000 or to imprisonment for a term not exceeding 5 years, or both, or

(ii) on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or both.

(9) Notwithstanding anything to the contrary provided for by or under any enactment, where in the opinion of the Revenue Commissioners, or such officer or officers of the Commissioners as they may from time to time designate for this purpose, there is information which may relate to—

(a) the commission of an offence, or

<sup>2</sup> O.J. No. L135, 31.5.1994, p. 5.

(b) a failure to comply with an obligation,

under the designated enactments or the designated statutory instruments, then the Commissioners or that officer shall disclose the information to the Bank.

(10) In this section—

‘approved professional body’ has the meaning given by section 55 of the Investment Intermediaries Act 1995;

‘product producer’ has the meaning given by section 2 of the Investment Intermediaries Act 1995;

‘restricted activity investment product intermediary’ has the meaning assigned to it by section 26 of the Investment Intermediaries Act 1995;

**F208** [‘Supervisory Directives’ means—

(a) Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000,

(b) Council Directive 93/22/EEC of 10 May 1993,

(c) Council Directive 85/611/EEC of 20 December 1985,

(d) Council Directive 92/49/EEC of 18 June 1992,

(e) Council Directive 92/96/EEC of 10 November 1992,

(f) the 2003 Market Abuse Directive (within the meaning of Part 4 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005),

(g) the supplemental Directives (within the meaning of that Part 4),

(h) the 2003 Prospectus Directive (within the meaning of Part 5 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005),

(i) Directive 2005/68/EC of 16 November 2005,

(j) the Transparency (Regulated Markets) Directive (within the meaning of Part 3 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006),

(k) Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions,

(l) Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions,

(m) Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation,

**F209** [(n) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments,

(o) the Supplemental Directive and the MiFID Regulation as defined in section 3(1) of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007 **F210** [(No. 37 of 2007),]

(p) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing **F211** [Directive 97/5/EC, and]]

**F212** [(q) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of

the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC.]]

‘supervised entity’ means any person or body in relation to which the Bank exercises functions under the designated enactments or the designated statutory instruments.]

#### Annotations

##### Amendments:

- F192** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.
- F193** Substituted and inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 64, S.I. No. 469 of 2010.
- F194** Substituted (19.12.2012) by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 68(1)(a) and (b), S.I. No. 557 of 2012.
- F195** Inserted (1.05.2007) by *Consumer Protection Act 2007* (19/2007), s. 94(5), S.I. No. 178 of 2007.
- F196** Inserted (31.12.2010) by *European Communities (Directive 2009/111/EC) Regulations 2010* (S.I. No. 627 of 2010), reg. 3(1) and sch. 1, item 1, commenced as per reg. 2.
- F197** Deleted (15.07.2010) by *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010), s. 114(2), S.I. No. 342 of 2010.
- F198** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 68, S.I. No. 469 of 2010.
- F199** Substituted (31.12.2010) by *European Communities (Directive 2009/111/EC) Regulations 2010* (S.I. No. 627 of 2010), reg. 3(1) and sch. 1, item 2, commenced as per reg. 2.
- F200** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 65, S.I. No. 469 of 2010.
- F201** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 9(a), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.
- F202** Inserted (19.12.2012) by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 56(3), S.I. No. 557 of 2012.
- F203** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 9(b), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.
- F204** Substituted (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(a), S.I. No. 730 of 2007.
- F205** Substituted (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(b), S.I. No. 730 of 2007.
- F206** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 66, S.I. No. 469 of 2010.
- F207** Substituted (21.12.2010) by *Credit Institutions (Stabilisation) Act 2010* (36/2010), s. 72 and sch. 1, pt. 2, item 1, S.I. No. 623 of 2010.
- F208** Substituted (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 7(a), S.I. No. 730 of 2007.
- F209** Substituted and inserted (1.11.2009) by *European Communities (Payment Services) Regulations 2009* (S.I. No. 383 of 2009), reg. 118 and sch. 2 pt. 2 item 1, commenced by reg. 2(2).
- F210** Substituted (30.04.2011) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), reg. 79(1) and sch. 1, pt. 1, item 1, commenced as per reg. 2.

**F211** Substituted (30.04.2011) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), reg. 79(1) and sch. 1, pt. 1, item 2, commenced as per reg 2.

**F212** Substituted (30.04.2011) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), reg. 79(1) and sch. 1, pt. 1, item 3, commenced as per reg 2.

**Editorial Notes:**

**E107** Subs. (5)(ao), (ap) substituted and inserted in s. 33K (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110(1) and sch. 2 pt. 1 item 3, S.I. No. 548 of 2011; amendment not possible as section previously deleted. The amendment appears to have been intended for this section.

**E108** Previous affecting provisions: definition of “supervisory directives” in subs. (10) amended (6.07.2005) by *Investment Funds, Companies and Miscellaneous Provisions Act 2005* (12/2005), s. 36, S.I. No. 323 of 2005; by *Investment Funds, Companies and Miscellaneous Provisions Act 2006* (41/2006), s. 23, not commenced; amended (15.07.2006) by *European Communities (Reinsurance) Regulations 2006* (S.I. No. 380 of 2006), regs. 84, commenced as per reg. 1(2); substituted (1.11.2007) by *European Communities (Markets in Financial Instruments) Regulations 2007* (S.I. No. 60 of 2007), reg. 192, commenced as per reg. 1(2) and deleted (1.11.2007) by *European Communities (Markets in Financial Instruments) (Amendment) Regulations 2007* (S.I. No. 663 of 2007), commenced as per reg. 1(3); substituted as per F-note above.

**E109** Previous affecting provision: subs. (5)(am) inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 67, S.I. No. 469 of 2010; substituted as per F-note above.

**E110** Previous affecting provision: additional subs. (5)(am) inserted (18.06.2009) by *Financial Services (Deposit Guarantee Scheme) Act 2009* (13/2009), s. 11 and sch. item 1(b), commenced on enactment; substituted as per F-note above.

**E111** Previous affecting provision: subs. (5)(al) amended (18.06.2009) by *Financial Services (Deposit Guarantee Scheme) Act 2009* (13/2009), s. 11 and sch. item 1(a), commenced on enactment; substituted as per F-note above.

**F213**[Bank to inform persons of obligations under section 33AK.

**33AL.—**(1) Subject to subsection (2), the Commission shall inform a person who is about to be appointed—

- (a) as Governor,
- (b) as an appointed member of the Commission,
- (c) as a Head of Function,
- (d) as Registrar of Credit Unions,
- (e) as an officer or employee of the Bank, or
- (f) as a consultant or auditor or in any other capacity by the Bank,

of the obligation imposed by section 33AK.

(2) In the case of a person appointed as the Secretary General of the Department of Finance, the Commission shall inform him or her of the obligation imposed by section 33AK as soon as practicable after he or she is so appointed.

(3) A person shall not accept office as Governor or as an appointed member of the Commission, as a Head of Function, or as an officer or employee of the Bank, unless he or she has acknowledged, in a form determined by the Commission, that he or she has been informed of the obligations imposed by section 33AK.]

**Annotations****Amendments:**

**F213** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 69, S.I. No. 469 of 2010.

**Editorial Notes:**

**E112** Previous affecting provision: section inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, subject to transitional provisions in s. 36 and sch. 3, S.I. No. 160 of 2003 and (30.04.2003) in *Central Bank and Financial Services Authority of Ireland Act 2003 (Transitional) Regulations 2003* (S.I. No. 161 of 2003), reg 3.

**F214**[Certain persons required to attend proceedings of Oireachtas committees.

**33AM.—(1)** This section applies to the following persons:

- F215**[(a) the Governor;  
(b) the Head of Central Banking;  
(c) the Head of Financial Regulation;]  
(e) the Registrar of Credit Unions.

(2) A person to whom this section applies shall—

- (a) if requested to do so, attend before the Joint Committee of the Oireachtas that is responsible for examining matters relating to the Bank, and  
(b) provide that Committee with such information as it requires.

(3) Subsection (2) has effect subject to—

- (a) the Rome Treaty and the ESCB Statute, and  
(b) any restrictions that are imposed on a person to whom this section applies by or under the Central Bank Acts, or any other enactment, in relation to appearing before the Joint Committee referred to in subsection (2)(a).]

**Annotations****Amendments:**

**F214** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 26, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F215** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 70, S.I. No. 469 of 2010.

**F216**[PART IIIC

## ENFORCEMENT OF DESIGNATED ENACTMENTS AND DESIGNATED STATUTORY INSTRUMENTS

## CHAPTER 1

*Interpretation]*



**Annotations****Amendments:**

**F216** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**Editorial Notes:**

**E113** Provision for certain information to be used for purposes of enquiry under Part IIIC made (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 47, S.I. No. 469 of 2010.

**E114** Provision for enquiries already commenced under Chapters 2 and 3 to be completed made (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 21(1), S.I. No. 469 of 2010.

**F216**[Interpretation (Part IIIC).

**33AN.**—In this Part—

‘contravene’ includes fail to comply, and also includes—

- (a) attempting to contravene, and
- (b) aiding and abetting and counselling and procuring a person to commit a contravention, and
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention, and
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and
- (e) conspiring with others to commit a contravention;

‘decision of the **F217**[Bank]’ means—

- (a) in relation to an inquiry held by the **F217**[Bank] under section 33AO, a finding made by **F218**[the Bank] in accordance with section 33AQ and any decision of **F218**[the Bank] imposing a sanction under that section in consequence of the finding, or
- (b) any decision of **F218**[the Bank] imposing a sanction under section 33AR;

**F219**‘designated enactment’ does not include Part 4 or 5 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 or Part 3 of the Investment Funds, Companies and Miscellaneous Provisions Act 2006;

‘designated statutory instrument’ does not include the Market Abuse (Directive 2003/6/EC) Regulations 2005 (S.I. No. 342 of 2005), the Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005) or regulations for the time being in force under *section 20* of the Investment Funds, Companies and Miscellaneous Provisions Act 2006;]

‘disqualification direction’ means a direction given under section 33AQ or 33AR disqualifying a specified person from being concerned in the management of a regulated financial service provider;

**F220**‘inquiry’ means an inquiry held under section 33AO or section 33AR, and includes such an inquiry begun by the former Regulatory Authority and continued by the Bank;]

‘notify’ means notify in writing.]

**Annotations****Amendments:**

**F216** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F217** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F218** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F219** Substituted (29.01.2007) by *Investment Funds, Companies and Miscellaneous Provisions Act 2006* (41/2006), s. 34(2), S.I. No. 23 of 2007.

**F220** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch.1, pt. 1, item 71, S.I. No. 469 of 2010.

**Editorial Notes:**

**E115** Previous affecting provision: definitions inserted (30.06.2005) by *Investment Funds, Companies and Miscellaneous Provisions Act 2005* (12/2005), s. 87(1), S.I. No. 323 of 2005; substituted as per F-note above.

**F221**[Application of Part to credit unions.

**33ANA.—** (1) This Part applies in relation to—

(a) the commission or suspected commission by a credit union of a contravention of—

(i) a provision of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010,

(ii) any direction given to the credit union under a provision of *Part 4* of that Act,

(iii) any condition or requirement imposed on the credit union under a provision of *Part 4* of that Act or under any direction given to the credit union under a provision of that Part, or

(iv) any obligation imposed on the credit union by this Part or imposed by the **F222**[Bank] pursuant to a power exercised under this Part,

and

(b) participation, by a person concerned in the management of a credit union, in the commission by the credit union of such a contravention.

(2) For those purposes—

(a) a reference in this Part to a regulated financial service provider includes a reference to a credit union,

(b) a reference in this Part to a prescribed contravention includes a reference to a contravention, by a credit union, of a provision, direction, condition, requirement or obligation referred to in subsection (1), and

(c) a reference in this Part to a person concerned in the management of a regulated financial service provider includes a reference to a person concerned in the management of a credit union.

(3) Nothing in this section limits the application of this Part in relation to matters other than those referred to in subsection (1).

(4) This section has effect notwithstanding anything to the contrary in section 184 of the Credit Union Act 1997.]

#### Annotations

##### Amendments:

**F221** Inserted (15.07.2010) by *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010), s. 114(3), S.I. No. 342 of 2010.

**F222** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010

**F223** Repealed by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 36, not commenced as of 22.02.2013.

##### Modifications (not altering text):

**C18** Prospective amending provision: section repealed by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 36, not commenced as of 22.02.2013.

**33ANA.—F223[...]**

**F224**[Application of Part to credit unions pursuant to Payment Services Directive.

**33ANB.—**(1) This Part applies in relation to—

(a) the commission or suspected commission by a credit union of a contravention of—

**F225**[(i) a provision of the European Communities (Payment Services) Regulations 2009 (S.I. No. 383 of 2009) or the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011),]

(ii) any direction given to the credit union under a provision of those Regulations,

(iii) any condition or requirement imposed on the credit union under a provision of those Regulations or under any direction given to the credit union under such a provision, or

(iv) any obligation imposed on the credit union by those Regulations or by the **F226**[Bank] pursuant to a power exercised under those Regulations, and

(b) participation, by a person concerned in the management of a credit union, in the commission by the credit union of such a contravention.

(2) For those purposes—

(a) a reference in this Part to a regulated financial service provider includes a reference to a credit union,

(b) a reference in this Part to a prescribed contravention includes a reference to a contravention, by a credit union, of a provision, direction, condition, requirement or obligation referred to in subsection (1), and

(c) a reference in this Part to a person concerned in the management of a regulated financial service provider includes a reference to a person concerned in the management of a credit union.

(3) Nothing in this section limits the application of this Part in relation to matters other than those referred to in subsection (1).

(4) However, for the purposes of the application of subsections (3)(c) and (5)(b) of section 33AQ in relation to a contravention by a credit union of a provision, direction, condition, requirement or obligation referred to in subsection (1)—

(a) the prescribed amount shall be taken to be €500,000 in all circumstances, and

(b) any prescription of a higher amount by regulations for the purposes of either of those subsections shall be disregarded.

(5) This section has effect notwithstanding anything to the contrary in section 184 of the Credit Union Act 1997.]

#### Annotations

#### Amendments:

**F224** Inserted (1.11.2009) by *European Communities (Payment Services) Regulations 2009* (S.I. No. 383 of 2009), reg. 118 and sch. 2 pt. 1 item 2, commenced by reg. 2(2).

**F225** Substituted (30.04.2011) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), reg. 79(1) and sch., pt. 1, item 4, commenced as per reg. 2.

**F226** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F227** Repealed by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 36, not commenced as of 22.02.2013.

#### Modifications (not altering text):

**C19** Section repealed by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 36, not commenced as of 22.02.2013.

**33ANB.—F227[...]**

## F228[CHAPTER 2

### *Power of F229[Bank] to hold inquiries*

F229[Bank] may hold inquiry into conduct of regulated financial service provider or person concerned in its management.

**33AO.—(1)** Whenever the F229[Bank] suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, it may hold an inquiry to determine whether or not the financial service provider is committing or has committed the contravention.

(2) Whenever the F229[Bank] suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission of a prescribed contravention by the financial service provider, it may hold an inquiry to determine whether or not the person is participating or has participated in the contravention. Such an inquiry may form part of an inquiry held under this section in relation to the suspected commission of a prescribed contravention by the financial service provider.]

#### Annotations

#### Amendments:

**F228** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F229** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F230**[F231[Bank] to give notice to regulated financial service provider with respect to inquiry.

**33AP.**—(1) Before holding an inquiry under section 33AO, the **F231[Bank]** shall give notice in writing of the proposed inquiry to the financial service provider or other person concerned.

(2) The notice must—

(a) specify the grounds on which the **F231[Bank]**'s suspicions are based, and

(b) specify a date, time and place at which the **F231[Bank]** will hold the inquiry, and

(c) invite the financial service provider or person concerned either to attend the inquiry or to make written submissions about the matter to which the inquiry relates.

(3) A regulated financial service provider or other person concerned may, before the date of the inquiry, lodge with the **F231[Bank]** any written submissions that the regulated financial service provider or person wishes **F232[the Bank]** to take into account when considering the matter to which the inquiry relates. This subsection applies whether or not the financial service provider or other person has been invited to attend the inquiry.

(4) The **F231[Bank]** may adjourn an inquiry from time to time and from place to place, but if it does so it shall ensure that the regulated financial service provider or other person concerned is notified of the date, time and place at which the inquiry is to be resumed.

(5) The **F231[Bank]** may proceed with an inquiry in the absence of the financial service provider or other person concerned so long as that financial service provider or person has been given an opportunity to attend the inquiry or to make written submissions to it.]

#### Annotations

##### Amendments:

**F230** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F231** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F232** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F233**[What decisions **F234[Bank]** can make at conclusion of inquiry held under section 33AO.

**33AQ.**—(1) At the conclusion of an inquiry held under section 33AO, the **F234[Bank]** shall make a finding as to whether the financial service provider concerned is committing or has committed the prescribed contravention to which the inquiry relates.

(2) At the conclusion of an inquiry relating to the conduct of a person concerned in the management of a regulated financial service provider, the **F234[Bank]** shall make a finding as to whether the person is participating or has participated in the prescribed contravention to which the inquiry relates.

(3) If the F234[Bank] makes a finding that a regulated financial service provider is committing or has committed a prescribed contravention, it may impose on the financial service provider one or more of the following sanctions:

- (a) a caution or reprimand;
- (b) a direction to refund or withhold all or part of an amount of money charged or paid, or to be charged or paid, for the provision of a financial service by the financial service provider;
- (c) a direction to pay to the F234[Bank] a monetary penalty not exceeding the prescribed amount;
- (d) if the financial service provider is a natural person, a direction disqualifying the person from being concerned in the management of a regulated financial service provider for such period as is specified in the order;
- (e) if the financial service provider is found to be still committing the contravention, a direction ordering the financial service provider to cease committing the contravention;
- (f) a direction to pay to the F234[Bank] all or a specified part of the costs incurred by that Authority in holding the inquiry and in investigating the matter to which the inquiry relates.

(4) For the purpose of subsection (3)(c), the prescribed amount is—

- (a) if the financial service provider is a body corporate or an unincorporated body, €5,000,000, or
- (b) if the financial service provider is a natural person, €500,000, or
- (c) if the regulations prescribe some other amount for paragraph (a) or (b), that other amount.

(5) If the F234[Bank] makes a finding that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission by the financial service provider of a prescribed contravention, it may impose on the person one or more of the following sanctions:

- (a) a caution or reprimand;
- (b) a direction to pay to the F234[Bank] a monetary penalty not exceeding the prescribed amount;
- (c) a direction disqualifying the person from being concerned in the management of a regulated financial service provider for such period as is specified in the order;
- (d) if the person is found to be still participating in the commission of the contravention, a direction ordering the person to cease participating in the commission of the contravention;
- (e) a direction to pay to the F234[Bank] all or a specified part of the costs incurred by F235[the Bank] in holding the inquiry and in investigating the matter to which the inquiry relates.

(6) For the purpose of subsection (5)(b), the prescribed amount is—

- (a) €500,000, or
- (b) if the regulations prescribe some other amount of money for paragraph (a), that other amount.

(7) At the conclusion of an inquiry relating to the conduct of a regulated financial service provider, the F234[Bank] shall notify its decision to the financial service provider. The decision must set out in writing—

- (a) its finding as to whether or not the financial service provider is committing or has committed the prescribed contravention to which the inquiry relates, and
- (b) the grounds on which its finding is based, and
- (c) if the F234[Bank] finds that the contravention is being or has been committed, the sanctions (if any) imposed under this section in respect of the contravention.

(8) At the conclusion of an inquiry relating to the conduct of a person concerned in the management of a regulated financial service provider, the F234[Bank] shall notify the person of its decision. The decision must set out—

- (a) its finding as to whether or not the person is participating or has participated in the commission of the prescribed contravention to which the inquiry relates, and
- (b) the grounds on which the finding is based, and
- (c) if the F234[Bank] finds that the person is participating or has participated in the contravention, the sanctions (if any) imposed under this section in respect of the participation.]

#### Annotations

#### Amendments:

**F233** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F234** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F235** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F236**[Alternative procedure when commission of, or participation in, prescribed contravention is acknowledged.

**33AR.**—(1) If, in a case where the F237[Bank] suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, the financial service provider acknowledges that the financial service provider is committing or has committed the contravention, the F237[Bank] may—

- (a) with the consent of the financial service provider, dispense with an inquiry and impose on the financial service provider any sanction that it is empowered to impose on regulated financial service providers under section 33AQ, or
- (b) hold an inquiry to determine what sanction (if any) should be imposed on the financial service provider in accordance with that section.

(2) If, in a case where the F237[Bank] suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is committing or has committed a prescribed contravention, the person acknowledges that the person is participating or has participated in the commission of the contravention, the F237[Bank] may—

- (a) with the person's consent, dispense with an inquiry and impose on that person any sanction that it is empowered to impose on persons concerned in the management of regulated financial service providers under section 33AQ, or

(b) hold an inquiry to determine what sanction (if any) should be imposed on the person in accordance with that section.

(3) At the conclusion of an inquiry under subsection (1)(b), the F237[Bank] shall notify its decision to the financial service provider concerned. The decision must set out in writing the sanctions (if any) imposed under that subsection in respect of the relevant contravention.

(4) At the conclusion of an inquiry held under paragraph (b) of subsection (2), the F237[Bank] shall notify the person concerned of its decision. The decision must set out the sanctions (if any) imposed under that paragraph in respect of the participation.]

#### Annotations

#### Amendments:

**F236** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F237** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F238**[Limitations on imposing monetary penalties.

**33AS.**—(1) If the F239[Bank] decides to impose a monetary penalty on a regulated financial service provider under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the financial service provider to cease business.

(2) If the F239[Bank] decides to impose a monetary penalty on a person under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the person to be adjudicated bankrupt.

(3) If conduct engaged in—

(a) by a regulated financial service provider constitutes two or more prescribed contraventions, or

(b) by a person concerned in the management of such a financial service provider constitutes participation in two or more prescribed contraventions by such a financial service provider,

an inquiry may be held under section 33AO or 33AR in relation to one or more of the contraventions, but only one monetary penalty may be imposed under section 33AQ or 33AR in respect of the same conduct.]

#### Annotations

#### Amendments:

**F238** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F239** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.



F240[Financial service provider etc. not to be liable to be penalised twice for same contravention.]

**33AT.**—(1) If the F241[Bank] imposes a monetary penalty in accordance with section 33AQ or 33AR and the prescribed contravention in respect of which the sanction is imposed is an offence under a law of the State, the financial service provider or other person concerned is not liable to be prosecuted or punished for the offence under that law.

(2) The F241[Bank] may not impose a monetary penalty on a financial service provider, or on a person concerned in the management of the financial service provider, in accordance with section 33AQ or 33AR, if—

(a) the financial service provider or other person has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and

(b) the offence involves a prescribed contravention.]

#### Annotations

#### Amendments:

**F240** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F241** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

F242[Person not to be concerned in management of regulated financial service provider while disqualified.]

**33AU.**—A regulated financial service provider shall ensure that a person is not permitted to be concerned in the management of the financial service provider while the person is subject to a disqualification direction that is in force under this Part.]

#### Annotations

#### Amendments:

**F242** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

F243[Power of F244[Bank] to resolve suspected contraventions, etc.]

**33AV.**—(1) If the F244[Bank] suspects on reasonable grounds that—

(a) a regulated financial service provider is committing or has committed a prescribed contravention, or

(b) a person concerned in the management of the financial service provider is participating or has participated in such a contravention,

it may enter into an agreement in writing with the financial service provider or person to resolve the matter.

(2) Such an agreement is to be on such terms as are specified in the agreement and is binding on the F244[Bank] and the financial service provider or person concerned. Those terms may include terms under which that financial service provider or person accepts the imposition of sanctions of the kind referred to in section 33AQ.

(3) The F244[Bank] may enter into an agreement under this section—

(a) without having held an inquiry into the matter under section 33AO or 33AR, or

(b) after beginning (but not after completing) such an inquiry.

(4) The F244[Bank] may, by proceedings brought in a court of competent jurisdiction, recover as a debt due to the Bank the amount of any amount agreed to be paid under an agreement entered into under this section.]

#### Annotations

##### Amendments:

**F243** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F244** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

F245[When decisions of the F246[Bank] under this Part take effect.

**33AW.**—(1) A decision of the F246[Bank] imposing a caution or reprimand takes effect—

(a) if no appeal against the decision is lodged with the Appeals Tribunal within the period allowed for lodging such an appeal—at the end of that period, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court against that decision has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal but is later withdrawn — at the time of the withdrawal of the appeal.

(2) A decision of the F246[Bank] directing payment of a monetary penalty, a refund of money or costs takes effect—

(a) if—

(i) the amount of the penalty, refund or costs is not paid to the F246[Bank] within the period allowed for appeals against such a decision, and

(ii) no appeal to the Appeals Tribunal is lodged within that period or, having been lodged within that period, is later withdrawn,

at the time when the decision is confirmed by an order of a court of competent jurisdiction,

or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court

against the determination of that Tribunal in respect of the decision has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (either with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the decision of that Tribunal but is later withdrawn — at the time when the appeal is withdrawn.

(3) A disqualification direction takes effect—

(a) if no appeal to the Appeals Tribunal is lodged within the period allowed for bringing such an appeal, or is lodged within that period but is later withdrawn — at the time when it is confirmed by an order of a District Court, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the direction is confirmed by that Tribunal — at the time when the period allowed for lodging an appeal in the High Court against the determination of that Tribunal in respect of the direction has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged within that period but is later withdrawn — at the time when the appeal is withdrawn, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the direction and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal but is later withdrawn, at the time when the appeal is withdrawn.

(4) Any other decision of the F246[Bank] under this Part takes effect—

(a) if no appeal against the decision is lodged with the Appeals Tribunal within the period allowed for lodging such an appeal, at the end of that period, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court against the determination of that Tribunal in respect of the decision has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision but is later withdrawn — at the time of the withdrawal of the appeal.

(5) A court of competent jurisdiction may hear an application by the F246[Bank] under this section otherwise than in public if—

(a) evidence may be given, or a matter may arise, during the hearing that is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against a law of the State, or

(b) a person's reputation would be unfairly prejudiced unless the court exercises its discretion under this section.]

#### Annotations

#### Amendments:

**F245** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F246** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F247**[Decision of **F248**[Bank] to be appealable.

**33AX.**—A decision of the **F248**[Bank] made at the conclusion of an inquiry held under section 33AO or section 33AR is an appealable decision for the purposes of Part VIIA.]

#### Annotations

#### Amendments:

**F247** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F248** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

### F249[CHAPTER 3

#### *Conduct of inquiries*

Proceedings at inquiries.

**33AY.**—(1) The **F250**[Bank] shall conduct an inquiry with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before it will allow.

(2) At an inquiry, the **F250**[Bank] shall observe the rules of procedural fairness, but is not bound by the rules of evidence.

(3) The **F250**[Bank] may be assisted by a legal practitioner when conducting an inquiry.

(4) A financial service provider or other person who has, in accordance with section 33AP, been invited to attend an inquiry or a part of it is entitled to be represented at the inquiry or part by a legal practitioner or, with the leave of the **F250**[Bank], by any other person.]

#### Annotations

#### Amendments:

**F249** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F250** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F251**[Inquiry normally to be held in public.

**33AZ.**—(1) Except as provided by subsection (2), the **F252**[Bank] shall hold its inquiries in public.

(2) The **F252**[Bank] and the financial service provider or other person to whom an inquiry relates may agree that the inquiry should be held in private, but even if they do not agree, **F253**[the Bank] may nevertheless decide to hold an inquiry in private if it is satisfied that—

(a) evidence may be given, or a matter may arise, during the inquiry that is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against a law of the State, or

(b) a person's reputation would be unfairly prejudiced unless **F253**[the Bank] exercises its powers under this section.

(3) The **F252**[Bank] may at any time vary or revoke a decision made under subsection (2).]

#### Annotations

#### Amendments:

**F251** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F252** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F253** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F254**[Power to summon witnesses and take evidence.

**33BA.**—(1) At an inquiry, the **F255**[Bank] may, in writing—

(a) summons a person to appear before the inquiry to give evidence, to produce specified documents, or to do both, and

(b) require the person to attend from day to day unless excused, or released from further attendance, by **F256**[the Bank].

(2) The person presiding at an inquiry may require evidence to be given on oath, and may for that purpose—

(a) require a witness at the inquiry to take an oath, and

(b) administer an oath to the witness.

(3) The oath to be taken by a person for the purposes of this section is an oath that the evidence the person will give will be true.

(4) The person presiding at an inquiry—

(a) may require a witness at the inquiry to answer a question put to the witness, and

(b) may require a person appearing at the inquiry in accordance with a summons issued under this section to produce a document specified in the summons.

(5) The person presiding at an inquiry may allow a witness at the inquiry to give evidence by tendering a written statement, which, if the person presiding so requires, must be verified by oath.]

#### Annotations

#### Amendments:

**F254** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F255** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F256** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F257[F258[Bank]** may refer to Court question of law arising at inquiry. **33BB.—**(1) The **F258[Bank]** may, on its own initiative or at the request of the financial service provider or other person concerned, refer to the Court for decision a question of law arising at an inquiry.

(2) If a question has been referred under subsection (1), the **F258[Bank]** may not, in relation to a matter to which the inquiry relates—

(a) give a decision to which the question is relevant while the reference is pending, or

(b) proceed in a manner, or make a decision, that is inconsistent with the Court's opinion on the question.

(3) If a question is referred under subsection (1)—

(a) the **F258[Bank]** shall send to the Court all documents before **F259[the Bank]** that are relevant to the matter in question, and

(b) at the end of the proceeding in the Court in relation to the reference, the Court shall cause the documents to be returned to **F259[the Bank].]**

#### Annotations

#### Amendments:

**F257** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F258** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F259** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F260[F261[Bank]** may publish its decisions. **33BC.—**(1) If on the holding of an inquiry under section 33AO the **F261[Bank]** has found that—

(a) a regulated financial service provider is committing or has committed a prescribed contravention, or

(b) a person concerned in the management of the financial service provider is participating or has participated in such a contravention,

it shall publish the finding, and details of any sanction imposed in consequence of the finding, in such form and manner as it thinks appropriate.

(2) If the F261[Bank] has, in accordance with section 33AR, imposed—

- (a) a sanction on a regulated financial service provider in respect of the commission of a prescribed contravention, or
- (b) a sanction on a person concerned in the management of a financial service provider in respect of the person's participation in the commission by the financial service provider of such a contravention,

it shall publish details of the sanction imposed, in such form and manner as it thinks appropriate.

(3) Subsections (1) and (2) do not apply to findings or details that the F261[Bank] determines—

- (a) to be of a confidential nature or to relate to the commission of an offence against a law of the State, or
- (b) would unfairly prejudice a person's reputation.

(4) The F261[Bank] shall publish annually, in a summary form, information on its actions under this Part.]

#### Annotations

#### Amendments:

**F260** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F261** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

F262[F263[Bank] may make guidelines with respect to the conduct of proceedings under this Part.

**33BD.**—(1) The F263[Bank] may prescribe guidelines with respect to the conduct of inquiries under this Part, and may for that purpose, incorporate by reference any procedure prescribed by Rules of the Superior Courts as in force at a specified time or as in force from time to time.

(2) The F263[Bank] may at any time amend or revoke guidelines prescribed under this section.

(3) Guidelines prescribed under this section, and any amendment to, or revocation of, those guidelines, must be in writing and be published in a manner determined by the F263[Bank].]

#### Annotations

#### Amendments:

**F262** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F263** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

F264[Performance and exercise of regulatory functions.]

**33BE.**—(1) Such officers and employees of the Bank and such suitably qualified persons as the Bank designates from time to time pursuant to subsection (2) are responsible for performing and exercising the functions and powers of the Bank under this Part.

(2) Without prejudice to the generality of subsection (1), the Bank may for the purposes of that subsection designate a person who is not an officer or employee of the Bank. A person so designated is an agent of the Bank for performing and exercising the functions and powers of the Bank under this Part or the part of those functions and powers for which the Bank designated him or her.]

#### Annotations

#### Amendments:

**F264** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 72, S.I. No. 469 of 2010.

#### Editorial Notes:

**E116** Previous affecting provision: section inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004; substituted as per F-note above.

F265[Limitation of period within which judicial review may be sought.]

**33BF.**—An application for leave to apply for judicial review of a decision of the F266[Bank] under this Part must be made—

(a) within 2 months after the date on which notice of the decision was first notified to the financial service provider or the person concerned, or

(b) if the High Court makes an order extending that period, within that extended period.]

#### Annotations

#### Amendments:

**F265** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 10, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F266** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

## PART IV.

### EXTINCTION OF CONSOLIDATED BANK NOTES.

Definitions in respect of this Part of this Act.

**34.**—(1) In this Part of this Act the word “half-year” means a period of six months ending on the 31st day of March or the 30th day of September, and the expression “Associated Bank” means one of the eight banks named in the second column of the Third Schedule to this Act and does not apply to any other bank.

(2) References in this Part of this Act to consolidated bank notes outstanding with an Associated Bank shall be construed as referring to and including all consolidated bank notes which, at the time to which the reference relates, have been issued by the Commission or by the Bank to that Associated Bank and have not been accepted by either the Commission or the Bank for retirement.



Restrictions on amount of consolidated bank notes outstanding.

**35.—**(1) The maximum amount of consolidated bank notes which may be outstanding with any particular Associated Bank mentioned in the second column of F267[Schedule 4]—

- (a) on any day during the period commencing on the day after the date of the passing of this Act and ending on the 31st day of December, 1944, shall not exceed the amount stated in the third column of F267[Schedule 4] opposite the name of such Associated Bank in the second column of that Schedule;
- (b) on any day during the triennial period ending on the 31st day of December, 1947, shall not exceed the amount stated in the fourth column of F267[Schedule 4] opposite the name of such Associated Bank in the second column of that Schedule;
- (c) on any day during the triennial period ending on the 31st day of December, 1950, shall not exceed the amount stated in the fifth column of F267[Schedule 4] opposite the name of such Associated Bank in the second column of that Schedule;
- (d) on any day during the triennial period ending on the 31st day of December, 1953, shall not exceed the amount stated in the sixth column of F267[Schedule 4] opposite the name of such Associated Bank in the second column of that Schedule.

(2) The Commission shall before the appointed day and the Bank shall on and after that day each take such steps, by restriction of issue or otherwise, as it thinks fit towards ensuring that the amount of consolidated bank notes outstanding with an Associated Bank on any day during a period mentioned in the foregoing sub-section of this section does not exceed the maximum amount indicated in that sub-section in respect of such Associated Bank for such period.

(3) No consolidated bank notes shall be issued by the Bank to any Associated Bank after the 31st day of December, 1953.

(4) It shall not be lawful for any Associated Bank to pay out any consolidated bank notes in respect of which it is the responsible bank after the 31st day of December, 1953, and if any Associated Bank shall pay out any consolidated bank note in contravention of this sub-section, such Associated Bank shall be liable to pay to the Bank a sum equal to one-tenth of the amount of such note.

(5) Sub-section (3) of section 58 of the Currency Act shall cease to have effect as on and from the 1st day of January, 1954, and every regulation made and direction given under that sub-section which is in force immediately before that day shall similarly cease to have effect.

(6) No consolidated bank notes shall be issued by the Commission or by the Bank to any bank which is not one of the eight banks named in the second column of F267[Schedule 4] to this Act.

(7) Whenever any amalgamation, partition, transfer, or other change occurs amongst the eight banks mentioned in the second column of F267[Schedule 4], it shall be lawful for the Board, with the consent of the Minister, to make such (if any) adjustment of all or any of the amounts stated in the third, fourth, fifth, and sixth columns respectively of F267[Schedule 4] as shall, in the opinion of the Board, be requisite or desirable in consequence of such amalgamation, partition, transfer, or other change.

#### Annotations

#### Amendments:

**F267** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 27, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

Payment in respect of consolidated bank notes outstanding after ceasing of issue.

**36.—**(1) Every Associated Bank shall, after the 31st day of December, 1953, and before the 1st day of January, 1957, pay to the Bank such sum as shall be equal to the amount (if any) of consolidated bank notes outstanding with such Associated Bank on the date of such payment.

(2) Every sum paid by an Associated Bank to the Bank in accordance with sub-section (1) of this section shall be placed by the Bank to the credit of the currency reserve.

(3) Upon payment by an Associated Bank to the Bank in accordance with sub-section (1) of this section of the sum required by that sub-section to be so paid by such Associated Bank, the following provisions shall have effect in respect of such Associated Bank, that is to say:—

- (a) such Associated Bank shall cease to be liable to pay the amount of any consolidated bank note outstanding with such Associated Bank on the date of such payment or to pay any payment on consolidated bank notes in respect of any period subsequent to the date of such payment to the Bank;
- (b) the Bank shall surrender to such Associated Bank all securities which, on the date of such payment to the Bank, are held by the Bank from such Associated Bank in respect of consolidated bank notes;
- (c) all consolidated bank notes outstanding with such Associated Bank on the said date shall be payable by the Bank on presentation at its principal office in Dublin and shall be so payable out of the currency reserve.

Payments by Associated Banks on consolidated bank notes.

**37.—**(1) Every Associated Bank shall pay to the Commission or to the Bank (as the case may require), in respect of every half-year ending after the date of the passing of this Act, the following sums, that is to say:—

- (a) in respect of the half-year (if any) which is partly before and on and partly after the date of the passing of this Act or which commences on that date—
  - (i) for the portion of such half-year which ends on or consists of the date of the passing of this Act, a sum calculated in accordance with sub-section (1) (except paragraph (e) thereof) of section 65 of the Currency Act, and
  - (ii) for the portion of such half-year which is subsequent to the date of the passing of this Act, a sum calculated at such rate, not exceeding two and one-half per cent. per annum, as shall from time to time be appointed in that behalf by the Minister on the amount of consolidated bank notes outstanding (up to the maximum amount authorised by this Act to be so outstanding) from day to day with such Associated Bank during the said portion of such half-year;
- (b) in respect of every half-year which begins after the date of the passing of this Act, a sum calculated at such rate, not exceeding two and one-half per cent. per annum, as shall from time to time be appointed in that behalf by the Minister on the amount of consolidated bank notes outstanding (up to the maximum amount authorised by this Act to be so outstanding) from day to day with such Associated Bank during such half-year;
- (c) in respect of every half-year ending after the date of the passing of this Act, a sum calculated at such rate, not exceeding three per cent. per annum, as shall from time to time be appointed in that behalf by the Minister on the amount of consolidated bank notes (if any) outstanding after the said date from day to day with such Associated Bank during such half-year in excess of the amount authorised by this Act to be so outstanding;
- (d) in respect of every half-year, ending after the date of the passing of this Act, such share of the expenses incurred during such half-year by the Commission or by the Bank in providing consolidated bank notes as shall be prescribed

by regulations made by the Commission or by the Bank and for the time being in force.

(2) At the end of every half-year the Commission or the Bank (as the case may require) shall ascertain in respect of every Associated Bank the amount of the payments on consolidated bank notes payable under this section by such bank in respect of such half-year and shall send to every Associated Bank a certificate showing the said amount so ascertained in respect of it and how such amount is made up, and every Associated Bank shall within fourteen days after receiving any such certificate pay to the Commission or the Bank (as the case may require) the amount stated in such certificate to be payable by it.

(3) Every sum payable by an Associated Bank to the Commission under this section shall be recoverable by the Commission or the Bank (as the case may be) from such Associated Bank as a civil debt in any court of competent jurisdiction, and the non-payment of any such sum by an Associated Bank within the time specified in this section for payment thereof shall be a ground for removing such bank from being an Associated Bank.

(4) A certificate under the seal of the Commission or of the Bank stating the amount payable on any occasion by an Associated Bank to the Commission or the Bank under this section and that such amount or a specified portion thereof is due and unpaid shall, in any proceedings by the Commission or the Bank to recover such amount, be evidence until the contrary is proved of the said matters so stated in such certificate.

Stamp duty in respect of consolidated bank notes.

**38.**—Section 49 of the Finance Act, 1932 (No. 20 of 1932), as amended by section 15 of the Finance Act, 1937 (No. 18 of 1937), shall apply and have effect in relation to the half-year (if any) which is partly before and on and partly after the date of the passing of this Act or which commences on that date as if the portion of such half-year which ends on or consists of the said date were a half-year, and the said section 49 as so amended shall, in pursuance of the repeal thereof by this Act, not apply or have effect in relation to the portion of such half-year which is subsequent to the said date.

Notes of former banks of issue.

**39.**—(1) In the case of every Associated Bank which was, at the passing of the Currency Act, a bank of issue, so much of the proportion of notes mentioned in sub-section (4) of section 60 of that Act as is for the time being not redeemed in pursuance of that section shall not, in respect of any day after the date of the passing of this Act, be deemed for the purposes of this Part of this Act to be consolidated bank notes outstanding with such Associated Bank.

(2) As on and from the day after the date of the passing of this Act, the appropriate rate per cent. per annum for the purposes of sub-section (1) of section 66 of the Currency Act shall be such rate, not exceeding two and one-half per cent. per annum, as shall from time to time be appointed by the Minister.

Power of banks of issue to write off certain notes.

**40.**—(1) Where, for the purpose of computing the payments to be made under section 66 of the Currency Act by an Associated Bank which was, at the passing of that Act, a bank of issue, it is necessary to have regard to the total amount, as ascertained by the Commission, of the notes of such Associated Bank outstanding (including notes in the tills or vaults of such Associated Bank) immediately before the appointed day mentioned in section 60 of the Currency Act, such Associated Bank may, for the said purpose, from time to time write off, with the sanction of the Minister, from the said total amount as so ascertained an amount not exceeding the amount of so many of the said notes of such Associated Bank still outstanding at the time of such writing off as are estimated by such Associated Bank to be unlikely ever to be presented to such Associated Bank for payment.

(2) The Minister may attach to any sanction given by him to a writing off under the foregoing sub-section of this section such conditions as he shall, having regard to the

circumstances, think proper, and may in particular require that the Associated Bank making such writing off shall pay to the Bank for addition to the currency reserve a specified proportion of the amount so written off, but subject to the limitation that the amount of such specified proportion shall not exceed the amount of the proportion appertaining to Saorstát Éireann determined by the Commission under sub-section (4) of section 60 of the Currency Act in respect of the notes of such Associated Bank outstanding immediately before the appointed day mentioned in that sub-section.

(3) Every writing off under this section by an Associated Bank shall have effect as on and from the date on which the sanction of the Minister thereto is given.

(4) Whenever an Associated Bank has written off an amount under this section, due regard shall be had to such writing off when computing the amount of any payment under section 66 of the Currency Act, as amended by this Act, payable by such Associated Bank in respect of a period wholly or partly subsequent to the date as on and from which such writing off has effect.

(5) No writing off under this section by an Associated Bank shall operate to release such Associated Bank from liability to pay any of its notes.

## PART V.

### DEPOSITS BY BANKERS.

Construction of references to holding oneself out as a banker.

#### 41.—F268[...]

##### Annotations

##### Amendments:

**F268** Part V (ss. 41-45) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Obligation to make deposit in the High Court.

#### 42.—F269[...]

##### Annotations

##### Amendments:

**F269** Part V (ss. 41-45) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

##### Editorial Notes:

**E117** Return of deposits required (1.09.1971) upon repeal of s. 42 by *Central Bank Act 1971* (24/1971), s. 55, S.I. No. 228 of 1971.

**E118** Previous affecting provision: power pursuant to subs. (3) exercised (22.12.1942) by *Banker's Deposit (Permission For Reduced Deposit) Order 1942* (S.R. & O. No. 542 of 1942), art. 2, expired 31.12.1945.

General provisions in relation to deposits under this Part of this Act.

**43.—F270[...]**

**Annotations**

**Amendments:**

**F270** Part V (ss. 41-45) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Deposit on behalf of a company before its incorporation.

**44.—F271[...]**

**Annotations**

**Amendments:**

**F271** Part V (ss. 41-45) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Payment of debts out of deposit.

**45.—F272[...]**

**Annotations**

**Amendments:**

**F272** Part V (ss. 41-45) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

## PART VI.

### BANKERS' LICENCES AND THE DUTIES OF LICENSED BANKERS.

Application of this Part of this Act.

**46.—F273[...]**

**Annotations**

**Amendments:**

**F273** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Bankers' licences.

**47.—F274[...]**

**Annotations****Amendments:**

**F274** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

**Editorial Notes:**

**E119** Power pursuant to section exercised (11.11.1942) by *Bankers' Licences Regulations 1942* (S.R. & O. No. 481 of 1942).

Publication of  
financial state-  
ments by licensed  
bankers.

**48.—F275[...]****Annotations****Amendments:**

**F275** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Publication of  
balance sheets by  
licensed bankers.

**49.—F276[...]****Annotations****Amendments:**

**F276** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Power to require  
deposit by  
licensed bankers  
in certain circum-  
stances.

**50.—F277[...]****Annotations****Amendments:**

**F277** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

Powers in respect  
of licensed  
bankers' clear-  
ances.

**51.—F278[...]**

**Annotations****Amendments:**

**F278** Part VI (ss. 46-51) repealed (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 5 and sch., S.I. No. 228 of 1971.

**Editorial Notes:**

**E120** Regulations made pursuant to section continued in force (1.09.1971) by *Central Bank Act 1971* (24/1971), s. 25(3), S.I. No. 228 of 1971.

## PART VII.

## COUNTERFEIT AND UNAUTHORISED CURRENCY.

Definition of  
“bank note” in  
this Part of this  
Act.

**Annotations****Editorial Notes:**

**E121** *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001), Part 5 makes provision for counterfeiting offences.

**52.**—In this Part of this Act the expression “bank note” has the same meaning as it has in the Forgery Act, 1913, as amended or extended by the Currency Act and by this Part of this Act.

Extension of the  
Forgery Act,  
1913.

**53.**—(1) Currency notes issued by or on behalf of the Government of any country outside the State shall be deemed to be bank notes within the meaning of the Forgery Act, 1913.

(2) In the foregoing sub-section of this section the expression “currency note” includes any notes (by whatever name they are called) which are legal tender in the country in which they are issued.

Disposal of bank  
notes, etc. seized  
under the Forgery  
Act, 1913.

**54.**—Where any forged bank note, or any machinery, implement, utensil, or material used or intended to be used for the forgery of a bank note is lawfully seized under a warrant granted under sub-section (1) of section 16 (as adapted by or under subsequent enactments) of the Forgery Act, 1913, or otherwise, such bank note, machinery, implement, utensil, or material (as the case may be) shall, by order of the court by which any person is tried for an offence in relation thereto or, if no person is so tried, by order of the justice of the District Court or by direction of the Peace Commissioner (as the case may be) by whom such warrant was granted, be delivered up to the Commission or a person authorised by the Commission to receive the same or, if such order is made after the appointed day, to the Bank or a person authorised by the Bank to receive the same.

Making, etc. a document purporting to be or resembling a bank note.

**55.—(1)** F279 [If any person makes, or causes to be made, or uses for any purpose whatsoever, or utters any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, a bank note or part of a bank note, he shall be guilty of an offence under this subsection and shall be liable—

(a) on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 5 years, or to both.]

(2) Where a person is convicted of an offence under the foregoing sub-section of this section, it shall be lawful for the court by which he is so convicted to order that the document in respect of which such offence was committed and all copies of such document and all plates, blocks, dies, and other instruments used for or capable of being used for printing or reproducing such document which are in the possession of the person so convicted to be delivered up to the Commission or, if such order is made after the appointed day, to the Bank.

(3) F280[...]

(4) F280[...]

#### Annotations

#### Amendments:

**F279** Substituted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 8(a), S.I. No. 176 of 1989.

**F280** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

#### Editorial Notes:

**E122** The sum of £1,000 referred to in subs. (1)(a) converts to €1,269.74. The sum of £10,000 referred to in subs. (1)(b) converts to €12,697.38. See *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1.

Prohibition of unauthorised money.

**56.—(1)** No person shall make, provide, issue, re-issue, or give or receive in payment any document (not being a document excluded by this section from the operation of this section) in writing (whether written on paper or on any other substance or material) which complies with both of the following conditions, that is to say:—

(a) the document purports or is expressed to be or is in fact exchangeable for a specified sum of lawful money on presentation by the holder for the time being thereof to a particular person or any two or more particular persons, whether such person or persons is or are or is not or are not specified in the document and whether such presentation is or is not subject to restrictions as to time and place and whether such restrictions (if any) are or are not stated in the document, and

(b) the document is intended or purports or appears to be intended to circulate as money or to be used as a substitute for lawful money, whether generally or for a particular purpose or within a particular area.

**F281[(2)** Every person who makes, provides, issues, re-issues, or gives or receives in payment any document in contravention of subsection (1) of this section shall be guilty of an offence under this section and shall be liable—



(a) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding five years, or to both.]

(3) Where a document is or purports or is expressed to be made, provided, issued, re-issued, or given or received in payment by or on behalf of a club, association, committee, council, or other body which is not incorporated, every member of that body shall be guilty of an offence under this section and be punishable accordingly.

(4) In any prosecution of a person for an offence under this section, the burden of proof that the document in relation to which the offence is alleged to have been committed was not intended and does not purport or appear to be intended to circulate as money or to be used as a substitute for lawful money (whether generally or for a particular purpose or within a particular area) shall lie on the person so prosecuted, and, unless and until the contrary is proved, it shall be presumed that the said document was intended (in contravention of this section) to circulate as money and be used as a substitute for lawful money.

(5) Every of the following documents is excluded from the operation of this section, that is to say:—

(a) bank notes;

(b) postal orders, post office money orders, and other documents issued by F282[An Post];

(c) bank drafts, deposit receipts, and other documents issued by any bank;

(d) bills of exchange not payable on presentation;

(e) promissory notes for not less than five pounds;

(f) cheques drawn on a banker, including cheques drawn by a banker on himself;

(g) tallies which—

(i) are (whether before or after the passing of this Act) issued or provided by a club or association the members of which consist wholly or mainly of persons who are for the time being unemployed, and

(ii) circulate only amongst the members of such club or association, and

(iii) are so issued or provided and are used solely for the purpose of enabling goods produced or services rendered by members of such club or association to be exchanged between members of such club or association.

#### Annotations

#### Amendments:

**F281** Substituted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 8(b), S.I. No. 176 of 1989.

**F282** Substituted (13.07.1983) by *Postal and Telecommunications Services Act 1983* (24/1983), s. 8 and sch. 4, commenced on enactment.

**Editorial Notes:**

**E123** The sum of £1,000 referred to in subs. (2)(a) converts to €1,269.74. The sum of £10,000 referred to in subs. (2)(b) converts to €12,697.38. The sum of five pounds referred to in subs. (5)(e) converts to €6.35. See *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1.

Amendment of the Customs Consolidation Act, 1876.

**57.—**(1) Section 17 of the Customs Consolidation Act, 1876, is hereby amended by the deletion of the words “British currency” and the insertion, in lieu of those words, of the words “currency which is for the time being legal tender in the State”.

(2) Section 42 of the Customs Consolidation Act, 1876, shall be construed and have effect as if the following articles were added to the Table of Prohibitions and Restrictions Inwards in that section, that is to say:—

(a) counterfeits of legal tender notes, and

(b) counterfeits of consolidated bank notes.

## F283[PART VIIA

## IRISH FINANCIAL SERVICES APPEALS TRIBUNAL

## CHAPTER 1

*Preliminary]***Annotations****Amendments:**

**F283** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**Modifications (not altering text):**

**C20** Application of chapter (ss. 57L-57Al) extended (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 43(8), S.I. No. 548 of 2011.

**Review of determination of compensation, etc.**

(8) The provisions (except subsections (1) and (4) of section 57L and the definition of “appealable decision” in section 57A) of Chapter 3 of Part VIIA (inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003 and amended by section 13 of the Central Bank and Financial Services Authority of Ireland Act 2004) of the Central Bank Act 1942 apply to an appeal under this section, except that—

(a) references in that Chapter to the Bank are to be read as references to the Assessor, and

(b) references in that Chapter to a decision or an appealable decision of the Bank are to be read as references to a determination of the Assessor.

**C21** Rules for appeals procedure made (1.08.2008) by *Irish Financial Services Appeals Tribunal Rules 2008* (S.I. No. 224 of 2008), rl. 1(3), commenced as per rl. 1(2).

**Citation, commencement and cesser**

1. ...

(3) These Rules contain the procedure which applies in any appeal to the Appeals Tribunal from an appealable decision and in any application under Part VIIA of the Central Bank Act 1942.

**Editorial Notes:**

- E124** Numerous provisions designate decisions as appealable decisions for purposes of this Part, including those listed below.
- E125** Prospective affecting provision: decisions designated as appealable decisions for the purposes of Pt. VIIA of Act by *Credit Union Act 1997* (15/1997), s. 52 as substituted by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 15(1), not commenced as of 22.02.2013.
- E126** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (1.07.2011) by *European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011* (S.I. No. 352 of 2011), regs. 131(1) and (6), 135(2), (4) and (5), commenced as per reg. 2.
- E127** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (30.04.2011) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), regs. 46 and 67, commenced as per reg. 2.
- E128** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 23(5) and (7), S.I. No. 469 of 2010.
- E129** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (19.05.2010) by *European Communities (Cross Border Payments) Regulations 2010* (S.I. No. 183 of 2010), reg. 5(6), commenced as per reg. 1(2).
- E130** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (19.12.2009) by *European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009* (S.I. No. 475 of 2009), reg. 17(11), commenced as per reg. 2.
- E131** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (1.11.2009) by *European Communities (Payment Services) Regulations 2009* (S.I. No. 383 of 2009), reg. 104, commenced as per reg. 2(2).
- E132** Decisions designated as appealable decisions for purposes of Pt. VIIA of Act by *European Communities (Customs and Excise) Regulations, 1992* (S.I. No. 395 of 1992), regs. 14H, 14M(3), 20I, 40I, 44, 187C(3) as inserted (10.06.2009) by *European Communities (Assessment of Acquisitions In the Financial Sector) Regulations 2009* (S.I. No. 206 of 2009), regs. 3(d), 4(d), 5(d), 7(c), commenced as per reg. 2.
- E133** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act by *Central Bank Act 1997* (8/1997), s. 34C as inserted (1.02.2008) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 19(i), S.I. No. 782 of 2008.
- E134** Decisions designated as appealable decisions for the purposes of Pt. VIIA of Act (1.11.2007) by *European Communities (Markets in Financial Instruments) Regulations 2007* (S.I. No. 60 of 2007), reg. 191, commenced as per reg. 1(2).
- E135** Decisions designated as appealable decisions for the purpose of Pt. VIIA of Act (1.06.2007) by *European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007* (S.I. No. 366 of 2007), reg. 14(12), commenced as per reg. 1(2).
- E136** Decisions designated as appealable decisions for the purpose of Pt. VIIA of Act (15.07.2006) by *European Communities (Reinsurance) Regulations 2006* (S.I. No. 380 of 2006), reg. 50, commenced as per reg. 1(2).
- E137** Decisions designated as appealable decisions for the purpose of Pt. VIIA of Act (14.01.2005) by *European Communities (Insurance Mediation) Regulations 2005* (S.I. No. 13 of 2005), reg. 40, commenced as per reg. 1(2).
- E138** Decisions designated as appealable decisions for the purpose of Pt. VIIA of Act (1.01.2005) by *European Communities (Financial Conglomerates) Regulations 2004* (S.I. No. 727 of 2004), reg. 18(12), commenced as per reg. 1(2).

**E139** Previous affecting provision: decisions designated as appealable decisions for the purposes of Pt. VIIA of Act by *European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992* (S.I. No. 396 of 1992), reg. 11A(23) as inserted (1.01.2005) by *European Communities (Consolidated Supervision of Credit Institutions) (Amendment) Regulations 2004* (S.I. No. 730 of 2004), reg. 5, commenced as per reg. 1(2); both revoked (19.12.2009) by *European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009* (S.I. No. 475 of 2009), reg. 27, commenced as per reg. 2.

**E140** Previous affecting provisions: decisions designated as appealable decisions by *European Communities (Supplementary Supervision of Insurance Undertakings in an Insurance Group) Regulations 1999* (S.I. No. 399 of 1999), reg. 11A(13) as inserted (1.01.2005) by *European Communities (Supplementary Supervision of Insurance Undertakings in an Insurance Group) (Amendment) Regulations 2004* (S.I. No. 371 of 2004), reg. 10, commenced as per reg. 1(2); both revoked (1.06.2007) by *European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007* (S.I. No. 366 of 2007), reg. 20, commenced as per reg. 1(2).

**F283**[Interpretation: Part VIIA and Schedule 5.

**57A.—(1)** In this Part and Schedule 5—

‘affected person’ means a person whose interests are directly or indirectly affected by an appealable decision;

‘appeal’ means an appeal under this Part;

**F284**‘appealable decision’ means a decision of the **F285**[Bank] that is declared by a provision of this Act, or of a designated enactment or designated statutory instrument, to be an appealable decision for the purposes of this Part;]

‘appellant’ means a person who has lodged an appeal;

‘Chairperson’ means the Chairperson of the Appeals Tribunal;

‘Deputy Chairperson’ means the Deputy Chairperson of the Appeals Tribunal;

‘lay member’ means a member of the Appeals Tribunal other than the Chairperson and Deputy Chairperson;

‘member’ means a member of the Appeals Tribunal;

‘party’, in relation to proceedings before the Appeals Tribunal, means either the appellant or the **F285**[Bank] as respondent;

‘Registrar’ means the Registrar of the Appeals Tribunal;

‘the rules’ means rules of the Appeals Tribunal made and in force under section 57AI.

(2) **F286**[...]

(3) **F286**[...]

**F284**[(2)] For the purposes of this Part, a decision made by a member of the **F285**[Bank] or by any person acting under the authority of **F285**[the Bank] is taken to be a decision of **F285**[the Bank].]

#### Annotations

#### Amendments:

**F283** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F284** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 11(a) and (c), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F285** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a) and (b), S.I. No. 469 of 2010.

**F286** Deleted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 11(b), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F287**[Objects of this Part.

**57B.**—The objects of this Part are as follows:

- (a) to establish the Irish Financial Services Appeals Tribunal as an independent tribunal—
  - (i) to hear and determine appeals under this Part, and
  - (ii) to exercise such other jurisdiction as is conferred on it by this Part or by any other enactment or law;
- (b) to ensure that the Appeals Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair;
- (c) to enable proceedings before the Appeals Tribunal to be determined in an informal and expeditious manner.]

#### Annotations

#### Amendments:

**F287** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

## F288[CHAPTER 2

### *Constitution and jurisdiction of Appeals Tribunal*

Establishment of the Appeals Tribunal.

**57C.**—A tribunal called ‘Binse Achomhairc Seirbhísí Airgeadais na hÉireann’ or in the English language the ‘Irish Financial Services Appeals Tribunal’ is established by this section.]

#### Annotations

#### Amendments:

**F288** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F289**[Member-ship of the Appeals Tribunal.

**57D.**—(1) The Appeals Tribunal consists of the following members:

- (a) a Chairperson;
- (b) a Deputy Chairperson;

(c) no fewer than 1 and no more than 5 lay members.

(2) The members are to be appointed by the President on the nomination of the Government.

(3) The document appointing a member is to specify whether the member has been appointed as the Chairperson or Deputy Chairperson or as a lay member.

(4) A member may be appointed on a fulltime basis or a part-time basis.

(5) Schedule 5 has effect with respect to the members.]

#### Annotations

#### Amendments:

**F289** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F290**[Eligibility for appointment as a member.

**57E.**—(1) A person is eligible to be appointed as the Chairperson or Deputy Chairperson only if the person is—

(a) a former judge of the Supreme Court or the High Court, or

(b) a barrister or solicitor of not less than 7 years standing.

(2) A person is eligible to be appointed as a lay member only if the President is satisfied that the person has special knowledge or skill in relation to the provision of financial services.

(3) A person is not eligible for appointment as a member 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 or is nominated as a member of Seanad Éireann, or

(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 or is, with the person's consent, nominated as a candidate for election as such a member.]

#### Annotations

#### Amendments:

**F290** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F291**[Appointment of acting members.

**57F.**—(1) The President may, on the advice of the Government, appoint as an acting Chairperson or acting Deputy Chairperson a person qualified for appointment as Chairperson or Deputy Chairperson if satisfied that the appointment is necessary to enable the Appeals Tribunal to exercise its functions effectively during the period of the appointment.

(2) The President may, on the advice of the Government, appoint as an acting lay member a person qualified for appointment as a lay member if satisfied that the appointment is necessary to enable the Appeals Tribunal to exercise its functions effectively during the period of the appointment.

(3) The appointment of a person under this section is for such period (not exceeding 12 months) as is specified in the document of appointment.

(4) An acting Chairperson, Deputy Chairperson or acting lay member has the functions of the Chairperson or Deputy Chairperson or lay member (as the case requires) subject to any conditions or limitations specified in the document of appointment.]

#### Annotations

#### Amendments:

**F291** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F292**[Jurisdiction and powers of the Appeals Tribunal.

**57G.**—(1) The Appeals Tribunal has jurisdiction to hear and determine—

(a) appeals made by affected persons against appealable decisions of the **F293**[Bank], and

(b) such other matters, or class of matters, as may be prescribed by any other Act or law.

**F294**[(1A) A decision of the **F293**[Bank] is not an appealable decision for the purposes of this Part if the Governor certifies in writing that the Governor has exercised the powers conferred by subsections (9) and (9A) of section 33C in relation to the decision, but instead a person who is dissatisfied with the decision may appeal to the High Court against the decision, within 28 days after the date of notification of the decision or within such extended period as that Court allows.]

(2) Subject to this Part, the Appeals Tribunal has power to do whatever is necessary for or in connection with, or reasonably incidental to, the exercise of its jurisdiction.]

#### Annotations

#### Amendments:

**F292** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F293** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F294** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 12, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F295**[Constitution of the Appeals Tribunal for particular proceedings.

**57H.**—(1) For the purpose of hearing a particular appeal, the Appeals Tribunal is constituted by 3 members or, if that Tribunal has more than 3 members, by 3 members designated by the Chairperson.

(2) Of the 3 members, one must be either the Chairperson or Deputy Chairperson.

(3) If the members constituting the Appeals Tribunal for a particular hearing include the Chairperson, the Chairperson is to preside at the hearing. Otherwise, the Deputy Chairperson is to preside.

(4) If there are sufficient members, the Appeals Tribunal may be separately constituted so as to enable it to hear different appeals at the same time.]

#### Annotations

#### Amendments:

**F295** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F296**[Functions of Chairperson.

**57I.—**(1) The Chairperson is responsible for directing the business of the Appeals Tribunal, subject to this Part and the rules.

(2) In particular, the Chairperson is responsible for deciding the places and times of hearings of appeals.]

#### Annotations

#### Amendments:

**F296** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F297**[Registrar and staff of the Appeals Tribunal.

**57J.—**(1) The Chairperson shall appoint a Registrar of the Appeals Tribunal and such other staff as may be necessary for the functioning of that Tribunal.

(2) Staff of the Appeals Tribunal (other than the Registrar) may be appointed from among the employees of the Bank, but only with the agreement of the Board.

(3) The Registrar and other staff of the Appeals Tribunal are to be employed on such terms (including terms as to remuneration and superannuation) as are agreed between the Chairperson and the Board from time to time.]

#### Annotations

#### Amendments:

**F297** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F298**[Responsibilities of Registrar of the Appeals Tribunal.

**57K.—**(1) The Registrar has the following responsibilities:

(a) to assist the Chairperson in administering the Appeals Tribunal;

(b) such other responsibilities as are imposed on the Registrar by or under this Part or by any other enactment or law.

(2) The rules may make further provision with respect to the responsibilities of the Registrar.]



**Annotations****Amendments:**

**F298** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

## F299[CHAPTER 3

*Hearing and determination of appeals]***Annotations:****Amendments:**

**F299** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**Modifications (not altering text):**

Application of chapter (ss. 57L-57AI) extended (21.01.2009) by *Anglo Irish Bank Corporation Act 2009* (1/2009), s. 31(8), commenced on enactment.

**31.— ...**

(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.

...

**F299**[Right of appeal to Appeals Tribunal against appealable decision.

**57L.—(1)** An affected person may appeal to the Appeals Tribunal in accordance with this section against an appealable decision of the **F300**[Bank].

**(2)** An appeal must—

(a) be in writing and state the grounds of appeal, and

(b) be lodged with the Registrar within 28 days after the **F300**[Bank] notified the affected person of the decision concerned, or within such extended period as the Registrar may allow, after consulting the Chairperson, and

(c) be accompanied by the fee (if any) prescribed by the rules.

(3) As soon as practicable after an appeal is lodged with the Registrar, the Registrar is required to give a copy of the appeal to the **F300**[Bank].

(4) The **F300**[Bank] is the respondent to every appeal.]

**Annotations****Amendments:**

**F299** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F300** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F301**[Appeals Tribunal may decide persons whose interests affected by a decision.

**57M.**—(1) If it is necessary for the purposes of this Act to decide whether the interests of a person are affected, or are likely to be affected, by a decision of the **F302**[Bank], that matter is to be decided by the Appeals Tribunal.

(2) If the Appeals Tribunal decides that the interests of a person are affected, or likely to be affected, by a decision of the **F302**[Bank], the decision of that Tribunal is conclusive and cannot be the subject of an appeal to the High Court.

(3) However, if the Appeals Tribunal decides that the interests of a person are not affected, or are not likely to be affected, by a decision of the **F302**[Bank], the person may appeal to the High Court against the decision of that Tribunal.]

#### Annotations

##### Amendments:

**F301** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F302** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F303**[Duty of **F304**[Bank] to give reasons on request.

**57N.**—(1) If the **F304**[Bank] has made an appealable decision, an affected person may make a written request to **F304**[the Bank] for a statement setting out the reasons for the decision.

(2) As soon as practicable, but in any case not later than 28 days, after receiving such a request, the **F304**[Bank] shall prepare a written statement of reasons for the decision and give it to the person who made the request.

(3) The statement of reasons must specify—

(a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and

(b) the **F304**[Bank]'s understanding of the applicable law, and

(c) the reasoning processes that led **F304**[the Bank] to the conclusions that it came to.]

#### Annotations

##### Amendments:

**F303** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F304** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a) and (b), S.I. No. 469 of 2010.

F305[F306[Bank] may refuse reasons in certain cases.

**57O.—**(1) The F306[Bank] may refuse to prepare and provide a statement of reasons requested by a person under section 57N if—

(a) it is of the opinion that the person is not entitled to be given the statement, or

(b) in the case of a decision the terms of which were recorded in writing and set out in a document that was provided to the person — the request was not made within 28 days after the person was provided with the document, or

(c) in any other case — the request was not made within a reasonable time after the decision was made.

(2) If the F306[Bank] refuses under subsection (1) to prepare and give a statement of reasons, it shall, in writing, notify the person making the request of the refusal and of the reasons for the refusal as soon as practicable (and in any case not later than 28 days) after the date on which the request was made.

(3) The F306[Bank] may not refuse to prepare and provide a statement of reasons if—

(a) in the case of a refusal based on subsection (1)(a) — the Appeals Tribunal makes an order declaring, on an application made under section 57P(1), that the person who made the request was entitled to make the request, or

(b) in the case of a refusal based on subsection (1)(c) — the Appeals Tribunal makes an order declaring, on an application made under section 57Q(2), that the person who made the request did so within a reasonable time.

(4) If the F306[Bank] may not refuse to comply with a request for a statement of reasons because of an order of the Appeals Tribunal referred to in subsection (3)(a) or (b), it shall prepare the written statement of reasons that was originally requested and give it to the person who requested it as soon as practicable (and in any case not later than 28 days) after being notified of the order.]

#### Annotations

#### Amendments:

**F305** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F306** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

F307[Appeals Tribunal may determine whether person entitled to reasons or made request within reasonable time.

**57P.—**(1) The Appeals Tribunal may, on the application of a person who has been refused a statement of reasons under section 57O(1)(a), make an order declaring that the person was, or was not, entitled to make the request to which the notice relates.

(2) The Appeals Tribunal may, on the application of a person who has been refused a statement of reasons under section 57O(1)(c) on the basis that the person did not make the request within a reasonable time, make an order declaring that the person did make the request within a reasonable time.]

**Annotations****Amendments:**

**F307** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F308**[Appeals Tribunal may order **F309**[Bank] to provide a statement of reasons or an adequate statement of reasons.]

**57Q.**—(1) If an affected person has requested a statement of reasons under section 57N but has not received it within the period specified by or under that section, the Appeals Tribunal may, on the application of the person, order the **F309**[Bank] to give the statement of reasons within such time as may be specified in the order.

(2) If an affected person who requested a statement of reasons under section 57N is given an inadequate statement of reasons, the Appeals Tribunal may, on the application of the person, order the **F309**[Bank] to give the person an adequate statement of reasons within such period as may be specified in the order.

(3) For the purposes of this section, a statement of reasons is an adequate statement of reasons only if it sets out the matters referred to in section 57N(3).]

**Annotations****Amendments:**

**F308** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F309** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F310**[Operation and implementation of appealed decision pending determination of appeal.]

**57R.**—(1) Subject to this section, the lodgement of an appeal with the Appeals Tribunal against a decision of the **F311**[Bank] does not affect the operation of the decision or prevent the taking of action to implement that decision.

(2) On the application of the appellant, the Appeals Tribunal may make such orders staying or otherwise affecting the operation of the decision appealed against as it considers will secure the effectiveness of the determination of the application.

**F312**[(2A) Subsection (2) applies only to an appealable decision made under Part IIIC.]

(3) The Appeals Tribunal may make an order under this section only if it considers that it is desirable to do so after taking into account—

(a) the interests of any persons who may be affected by the determination of the application, and

(b) any submission made by or on behalf of the **F311**[Bank], and

(c) the public interest.

(4) While an order is in force under this section (including an order that has previously been varied on one or more occasions under this subsection), the Appeals Tribunal may, on application by a party to the proceedings, vary or revoke the order by another order.

(5) The Appeals Tribunal may not—

- (a) make an order under this section unless the F311[Bank] has been given a reasonable opportunity to make submissions in relation to the matter, or
  - (b) make an order varying or revoking an order in force under this section (including an order as varied) unless each interested person has been given a reasonable opportunity to make submissions in relation to the matter.
- (6) The following are interested persons for the purposes of subsection (5)(b):
- (a) the F311[Bank];
  - (b) the person who requested the making of the order;
  - (c) if the order has previously been varied by an order or orders under this section — the person or persons who requested the making of the variation.
- (7) A party to the relevant proceedings may appeal to the High Court against an order made under this section or against a refusal to make such an order.]

**Annotations****Amendments:**

**F310** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F311** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F312** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 13, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

F313[Conditions of stay order.

**57S.—**(1) An order in force under section 57R (including an order that has previously been varied on one or more occasions) is subject to such conditions as are specified in the order.

(2) Any such order has effect—

- (a) if a period for the operation of the order is specified in the order — until the end of that period or, if the Appeals Tribunal decides the relevant appeal before the end of that period, until the decision of that Tribunal on the appeal takes effect, or
- (b) if no period is so specified — until the decision of that Tribunal on the appeal takes effect.]

**Annotations****Amendments:**

**F313** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

F314[Opportunity of parties to make submissions.

**57T.—**The Appeals Tribunal shall ensure that each party to proceedings before that Tribunal is given a reasonable opportunity—

- (a) to present the party's case (whether at a hearing or otherwise), and

(b) to make submissions in relation to the issues arising in the proceedings.]

#### Annotations

#### Amendments:

**F314** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F315**[Representa-  
tion of parties.

**57U.**—(1) A party to proceedings before the Appeals Tribunal may—

(a) appear without representation, or

(b) be represented by an agent, or

(c) if the party is an incapacitated person — be represented by such other person as may be appointed by that Tribunal under subsection (2).

(2) If it appears to the Appeals Tribunal that a party is an incapacitated person, it may appoint a suitable person to represent the party.

(3) Any person appearing before the Appeals Tribunal may use the services of an interpreter unless the person can understand and speak the English language sufficiently to enable the person to understand, and to make an adequate reply to, questions that may be put to the person.

(4) In this section—

‘incapacitated person’ means—

(a) a minor, or

(b) a person who is totally or partially incapable of representing himself or herself in proceedings before the Appeals Tribunal because the person is intellectually, physically, psychologically or sensorily disabled, of advanced age, a mentally incapacitated person or otherwise disabled, or

(c) any other person of a class prescribed by regulations made under section 57AZ for the purposes of this paragraph;

‘interpreter’ includes a person who interprets signs or other things made or done by a person who cannot speak adequately for the purposes of giving evidence in proceedings.]

#### Annotations

#### Amendments:

**F315** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F316**[Procedure  
of the Appeals  
Tribunal.

**57V.**—(1) The Appeals Tribunal may, subject to this Part and the rules, determine its own procedure.

(2) The Appeals Tribunal is not bound by the rules of evidence and may inquire into and inform itself on any matter in such manner as it thinks fit, subject to the rules of natural justice.

(3) When hearing an appeal, the Appeals Tribunal is not limited to—

- (a) considering the evidence or grounds on which the F317[Bank] based the decision that is the subject of the appeal, or
- (b) applying any sanction that was imposed as a part of that decision.

(4) The Appeals Tribunal is required to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.

(5) The Appeals Tribunal is required to take such measures as are reasonably practicable—

- (a) to ensure that the parties to the proceedings before it understand the nature of the assertions made in the proceedings and the legal implications of those assertions, and
- (b) if requested to do so — to explain to the parties any aspect of the procedure of that Tribunal, or any decision or ruling made by it, that relates to the proceedings, and
- (c) to ensure that the parties have a reasonable opportunity to be heard or otherwise have their submissions considered in the proceedings.

(6) In proceedings before it, the Appeals Tribunal is required to act as expeditiously as is practicable and to ensure that all relevant material is disclosed to that Tribunal so as to enable it to determine all of the relevant facts in issue in the proceedings.

(7) In particular, the Appeals Tribunal may do all or any of the following:

- (a) require evidence or argument to be presented in writing and decide on the matters on which it will hear oral evidence or argument;
- (b) require the presentation of the respective cases of the parties before it to be limited to the periods of time that it determines are reasonably necessary for the fair and adequate presentation of the cases;
- (c) authorise a document to be served outside the State;
- (d) adjourn proceedings to any time and place (including for the purpose of enabling the parties to negotiate a settlement);
- (e) at any stage dismiss proceedings if the applicant has withdrawn the application to which the proceedings relate;
- (f) at any stage dismiss proceedings that it considers to be frivolous or vexatious or otherwise misconceived or lacking in substance.

(8) The member presiding at proceedings of the Appeals Tribunal may—

- (a) hold a directions hearing in relation to any proceedings before that Tribunal, or
- (b) authorise the Registrar to hold a directions hearing in relation to the proceedings.]

**Annotations****Amendments:**

**F316** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F317** Substituted (23.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F318** [Proceedings on hearing to be normally conducted in public.]

**57W.**—(1) The hearing of an appeal is to be open to the public, unless the parties to the hearing agree that it should be conducted in private.

(2) However, even if the parties do not agree that the hearing should be conducted in private, the Appeals Tribunal may, if satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, make any one or more of the following orders:

(a) an order that the hearing be conducted wholly or partly in private;

(b) an order prohibiting or restricting—

(i) the disclosure of the name, address, picture or any other material that identifies, or may lead to the identification of, any person (whether or not a party to proceedings before the Appeals Tribunal or a witness summoned by, or appearing before, it), or

(ii) the doing of any other thing that identifies, or may lead to the identification of, any such person;

(c) an order prohibiting or restricting the publication or broadcast of any report of proceedings before it;

(d) an order prohibiting or restricting the publication of evidence given before that Tribunal, whether in public or in private, or of matters contained in documents lodged with it or received in evidence by it;

(e) an order prohibiting or restricting the disclosure to some or all of the parties to the proceedings of evidence given before that Tribunal, or of the contents of a document lodged with it or received in evidence by it, in relation to the proceedings.

(3) The Appeals Tribunal may make an order under subsection (2) either on its own or on the application of a party.

(4) The Appeals Tribunal may vary or revoke an order made under subsection (2).]

**Annotations****Amendments:**

**F318** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.



**F319**[Power to remit matters to F320[Bank] for further consideration.]

**57X.**—(1) At any stage of proceedings to determine an appeal against an appealable decision, the Appeals Tribunal may remit the decision to the F320[Bank] for its reconsideration.

(2) The F320[Bank] shall reconsider a decision remitted under subsection (1) and on the reconsideration may—

- (a) affirm the decision, or
- (b) vary the decision, or
- (c) substitute for the decision a new decision.

(3) If the F320[Bank] varies the remitted decision—

- (a) the appeal is taken to be an appeal against the decision as varied, and
- (b) the appellant may either—
  - (i) proceed with the appeal as varied, or
  - (ii) withdraw the appeal.

(4) If the F320[Bank] substitutes for the remitted decision a new decision in substitution for the decision set aside—

- (a) the appeal is taken to be an appeal against the new decision, and
- (b) the appellant may either—
  - (i) proceed with the appeal in relation to the new decision, or
  - (ii) withdraw the appeal.]

#### Annotations

#### Amendments:

**F319** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F320** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F321**[Reconstitution of Appeals Tribunal during hearing of appeal.]

**57Y.**—(1) The Chairperson may replace a member during the hearing of an appeal if the member becomes mentally or physically incapacitated or otherwise becomes unavailable, or ceases to be a member, before the appeal is determined, but only if the parties agree.

(2) The Appeals Tribunal as so reconstituted is to have regard to the evidence and decisions in relation to the matter that were given or made before it was reconstituted.

(3) If a party does not agree to the reconstitution of the Appeals Tribunal under this section, that Tribunal, as constituted in accordance with this Part, is required to reconsider the proceedings.

(4) When reconsidering proceedings, the Appeals Tribunal may, for the purposes of the proceedings, have regard to any record of the proceedings before that Tribunal as previously constituted, including a record of any evidence taken in the proceedings.]

**Annotations****Amendments:**

**F321** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F322** [What decisions the Appeals Tribunal can make in determining an appeal.

**57Z.—(1)** In determining an appeal against an appealable decision, the Appeals Tribunal shall decide what the correct and preferable decision is having regard to the material then before it, including—

(a) any relevant factual material, and

(b) any applicable enactment or other law.

(2) As soon as possible after finishing the hearing of an appeal against an appealable decision, the Appeals Tribunal shall do one of the following:

(a) affirm the decision, or

(b) vary the decision, or

(c) substitute for the decision any appropriate decision that the **F323**[Bank] could have lawfully made in relation to the matter concerned, or

**F324**[(d) remit the matter concerned for reconsideration by the **F323**[Bank], together with any recommendation or direction of the Appeals Tribunal as to what aspects of the matter should be reconsidered and, in the case of an appealable decision made under Part IIIC, set aside the decision.

(2A) Paragraphs (b) and (c) of subsection (2) apply only to an appealable decision made under Part IIIC.]

(3) The Appeals Tribunal may dismiss an appeal against an appealable decision on the ground that the appellant has failed to attend a hearing of that Tribunal, but only if it is satisfied that the appellant was notified of the date, time and place fixed for the hearing.

(4) The Appeals Tribunal may allow an appeal against an appealable decision on the ground that the **F323**[Bank] has failed to attend a hearing of that Tribunal, but only if it is satisfied that **F323**[the Bank] was notified of the date, time and place fixed for the hearing. In that case, the Appeals Tribunal may substitute for the decision appealed against any appropriate decision that the **F323**[Bank] could have lawfully made in relation to the matter concerned.]

**Annotations****Amendments:**

**F322** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F323** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a) and (b), S.I. No. 469 of 2010.

**F324** Substituted and inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 14(a) and (b), S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F325**[How decisions of the Appeals Tribunal are to be made and given.

**57AA.**—(1) If the members are not in unanimous agreement on a matter to be determined in proceedings before the Appeals Tribunal, the decision of the majority on the matter is the decision of that Tribunal.

(2) However, a question of law (including the question whether a particular question is a question of law) arising in proceedings before the Appeals Tribunal is to be decided by the member who is presiding in the proceedings.

(3) In deciding a matter before it, the Appeals Tribunal may impose such conditions (including exemptions) as it specifies in the decision.

(4) The Appeals Tribunal is required to give reasons for its decision in writing—

(a) within 28 days after the date on which it gave its decision, or

(b) if the rules specify some other period (either generally or for that class of matter) — within that other period.

(5) Those reasons must set out—

(a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based, and

(b) the Appeals Tribunal's understanding of the applicable law, and

(c) the reasoning processes that led that Tribunal to the conclusions that it made.

(6) A failure to comply with subsection (4) or (5) does not affect the validity of a decision of the Appeals Tribunal.

(7) The Appeals Tribunal shall ensure that a copy of its decision determining an appeal is served on each party to the proceedings.]

#### Annotations

#### Amendments:

**F325** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F326**[Appeals Tribunal may reserve decision.

**57AB.**—(1) The Appeals Tribunal may reserve its decision in any proceedings before it.

(2) A reserved decision of the Appeals Tribunal may be given—

(a) at a subsequent sitting of that Tribunal, or

(b) if the decision is set out in writing and is signed by the person who presided in the proceedings — by being delivered by the Chairperson or Deputy Chairperson, or

(c) by the Registrar, at a time and place of which the parties have been given reasonable notice.]

**Annotations****Amendments:**

**F326** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F327**[Effect of decision of the Appeals Tribunal.

**57AC.**—(1) A decision determining an appeal takes effect on the date on which it is given or such later date as may be specified in the decision.

(2) If any such decision varies, or is made in substitution for, a decision of the **F328**[Bank], the decision of the Appeals Tribunal is taken—

(a) to be the decision of **F328**[the Bank], and

(b) unless that Tribunal orders otherwise — to have had effect as the decision of **F328**[the Bank] on and from the date of its original decision. ]

**Annotations****Amendments:**

**F327** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F328** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a) and (b), S.I. No. 469 of 2010.

**F329**[Amendments and irregularities.

**57AD.**—(1) The Appeals Tribunal may, in any proceedings before it, make any amendments to the proceedings that that Tribunal considers to be necessary in the interests of justice.

(2) Any such amendment may be made—

(a) at any stage of the proceedings, and

(b) on such terms as the Appeals Tribunal thinks fit (including terms as to costs).

(3) A failure to comply with a provision of this Part or of the rules in relation to proceedings before the Appeals Tribunal is to be treated as an irregularity that does not itself nullify the proceedings, any step taken in the proceedings, or any decision relating to the proceedings. Nevertheless, if such a failure occurs, the Appeals Tribunal may wholly or partly set aside the proceedings, a step taken in the proceedings, or a decision in the proceedings.]

**Annotations****Amendments:**

**F329** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F330**[Recovery of amounts ordered to be paid.

**57AE.**—(1) To facilitate the recovery of any amount (including costs) that the Appeals Tribunal has ordered to be paid, the Registrar is required to certify the amount to be paid.

(2) A certificate given under this section must identify the person liable to pay the certified amount.

(3) A certificate of the Registrar that—

(a) is given under this section, and

(b) is filed in the registry of a court having jurisdiction to give judgment for a debt of the same amount as the amount stated in the certificate,

operates as such a judgment.

(4) A party to proceedings in respect of which an amount has been certified by the Registrar under this section may apply to the Appeals Tribunal for a review of the decision to certify that amount.]

#### Annotations

#### Amendments:

**F330** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F331**[Powers in relation to witnesses.

**57AF.**—(1) The Appeals Tribunal may, in relation to proceedings before it—

(a) call witnesses on its own initiative, and

(b) examine witnesses on oath, or by use of a statutory declaration, and

(c) examine or cross-examine any witness to such extent as it thinks proper in order to elicit information relevant to the determination of the proceedings, and

(d) require any witness to answer questions that it believes to be relevant to the proceedings.

(2) If the Appeals Tribunal decides to call a person as a witness under this section, it may—

(a) try to get the person to attend the proceedings voluntarily by notifying the person in such manner as it thinks appropriate, or

(b) direct the Registrar to issue a summons to compel the attendance of the person before it.

(3) A party to proceedings before the Appeals Tribunal may apply to the Registrar for the issue of a summons compelling the attendance of a witness before it.

(4) On receiving a direction under subsection (2) or an application under subsection (3), the Registrar shall issue a summons requiring the person named in the summons—

(a) to attend proceedings of the Appeals Tribunal on a specified date and at a specified time and place, and

(b) to attend and give evidence, or attend and produce documents or other things, or to do both of those things.

(5) A summons must be signed by the Registrar or be otherwise authenticated as provided by the rules.

(6) A person who, without reasonable excuse, fails to comply with the requirements of a summons commits an offence and is liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding 3 months, or both.

(7) A summons may be served within or outside the State.

(8) A person who attends proceedings of the Appeals Tribunal to give evidence, or attend and produce documents or other things, is entitled to the same protection and immunity as a person appearing as a witness in civil proceedings before a court.]

#### Annotations

#### Amendments:

**F331** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F332**[Power to correct decisions of the Appeals Tribunal.

**57AG.**—(1) If, after making a decision, the Appeals Tribunal is satisfied that there is an obvious error in the text of the decision or in a written statement of reasons for the decision, it may direct the Registrar to alter the text of the decision or statement in accordance with its directions.

(2) If the text of a decision or statement is so altered, the altered text is taken to be the decision of the Appeals Tribunal or the reasons for the decision.

(3) Examples of obvious errors in the text of a decision or statement of reasons are where—

(a) there is an obvious clerical or typographical error in the text of the decision or statement of reasons, or

(b) there is an error arising from an accidental slip or omission, or

(c) there is a defect of form, or

(d) there is an inconsistency between the decision and the statement of reasons.

(4) The powers of the Appeals Tribunal under this section may be exercised by the member who presided at the proceedings to which the decision relates.]

#### Annotations

#### Amendments:

**F332** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F333**[Appeals Tribunal may award costs in certain circumstances.

**57AH.**—(1) The Appeals Tribunal may award costs in relation to proceedings before it and may determine by whom and to what extent costs are to be paid.

(2) In this section, ‘costs’ includes not only costs of or incidental to the hearing and determination of an appeal, but also the costs of or incidental to the proceedings giving rise to the appeal.]

**Annotations****Amendments:**

**F333** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F334** [Appeals Tribunal may make rules of procedure.

**57AI.—(1)** The Appeals Tribunal may make rules, not inconsistent with this Part, for or with respect to any matter—

- (a) that by this Part is required or permitted to be prescribed by the rules, or
- (b) that is necessary or convenient to be prescribed in relation to the practice and procedure of that Tribunal.

(2) Without limiting subsection (1), the rules may provide for all or any of the following matters:

- (a) the responsibilities of the Registrar or other staff of the Appeals Tribunal under this Part;
- (b) fixing the places and times for holding hearings of the Appeals Tribunal;
- (c) the representation of parties at hearings of the Appeals Tribunal;
- (d) the discovery of documents relating to proceedings before the Appeals Tribunal;
- (e) notifying decisions of the Appeals Tribunal to parties to proceedings before it;
- (f) the means for, and the practice and procedure to be followed in, the enforcement and execution of decisions of the Appeals Tribunal;
- (g) the fees payable in respect of lodging appeals with the Appeals Tribunal;
- (h) the waiver of fees payable in respect of lodging appeals with the Appeals Tribunal (whether at the time of lodgement of an appeal or otherwise);
- (i) the refund, in whole or in part, of fees if proceedings before the Appeals Tribunal terminate in a manner favourable to the appellant;
- (j) the award of costs in respect of proceedings before the Appeals Tribunal;
- (k) the use of the seal of the Appeals Tribunal.]

**Annotations****Amendments:**

**F334** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

**E141** Power pursuant to section exercised (1.08.2008) by *Irish Financial Services Appeals Tribunal Rules 2008* (S.I. No. 224 of 2008), commenced as per reg. 1(2).

*References and appeals to High Court*

References of questions of law to High Court.

**57AJ.**—(1) When hearing an appeal, the Appeals Tribunal may, on its own initiative or at the request of a party, refer a question of law arising in the appeal to the High Court for the opinion of the Court.

(2) The High Court has jurisdiction to hear and determine any question of law referred to it under this section.

(3) If a question of law arising in an appeal has been referred to the High Court under this section, the Appeals Tribunal may not—

(a) give a decision in the appeal to which the question is relevant while the reference is pending, or

(b) proceed in a manner, or make a decision, that is inconsistent with the opinion of the High Court on the question.]]

**Annotations****Amendments:**

**F335** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F336**[Right of appeal to High Court.

**57AK.**—(1) A party to an appeal determined by the Appeals Tribunal may appeal to the High Court against the decision of the Appeals Tribunal in respect of the appeal.

(2) Neither the Appeals Tribunal nor any of its members can be made a party to an appeal under this section.

**F337**[(3) An appeal under this section must be made within 28 days after the notification of the decision or within such extended period as that Court allows.]]

**Annotations****Amendments:**

**F336** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F337** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 15, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F338**[Orders on appeal to the High Court.

**57AL.**—(1) The High Court is to hear and determine an appeal made under section 57AK and may make such orders as it thinks appropriate in light of its determination.

(2) The orders that may be made by the High Court on the hearing of such an appeal include (but are not limited to)—

(a) an order affirming or setting aside the decision of the Appeals Tribunal, and

(b) an order remitting the case to be heard and decided again by that Tribunal (either with or without the hearing of further evidence) in accordance with the directions of that Court.



(3) The determination of the High Court on the hearing of such an appeal is final, except that a party to the appeal may apply to the Supreme Court to review the determination on a question of law (but only with the leave of either of those Courts).]

#### Annotations

#### Amendments:

**F338** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F339**[Appeal does not stay decision of the Appeals Tribunal.

**57AM.**—An appeal under section 57AK does not—

- (a) affect the operation of the decision appealed against, or
- (b) prevent the taking of action to implement the decision, unless the High Court otherwise orders.]

#### Annotations

#### Amendments:

**F339** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

## F340[CHAPTER 5

### Miscellaneous

Contempt of Appeals Tribunal.

**57AN.**—(1) The Appeals Tribunal may report the following matters to the High Court:

- (a) if a person fails to attend in obedience to a summons after having been served with a summons to attend before the Appeals Tribunal as a witness, or
- (b) if a person fails to produce any document or other thing in the person's custody or control that the person is required by a summons to produce after having been served with a summons to attend before the Appeals Tribunal, or
- (c) if a person refuses to be sworn or to make an affirmation or refuses or otherwise fails to answer any question that is put to the person by the Appeals Tribunal after being called or examined as a witness before that Tribunal, or
- (d) if a person threatens or insults—
  - (i) a member, assessor or officer of the Appeals Tribunal, or
  - (ii) any witness or person summoned to attend before that Tribunal, or
  - (iii) a barrister, solicitor or other person authorised to appear before that Tribunal, or
- (e) if a person interrupts the proceedings of, or otherwise misbehaves before, the Appeals Tribunal, or

- (f) if a person obstructs or attempts to obstruct the Appeals Tribunal, a member of that Tribunal or a person acting with the authority of that Tribunal in the exercise of any lawful function, or
- (g) if a person discloses, or authorises the disclosure of, evidence given before the Appeals Tribunal or any of the contents of a document produced at a hearing that that Tribunal has ordered not to be published, or
- (h) if a person discloses, or authorises the disclosure of, evidence given before the Appeals Tribunal at a hearing held in private or any of the contents of a document produced at a hearing held in private (except to a member of staff of that Tribunal or as permitted by that Tribunal), or
- (i) if a person does any other thing that, if the Appeals Tribunal were a court of law having power to commit for contempt, would be contempt of that court.
- (2) If the Appeals Tribunal reports a matter to the High Court under subsection (1), and the Court is satisfied that there was no reasonable excuse for the act or omission concerned, then the Court—
- (a) may make an order requiring the person concerned to comply with this Act, and
- (b) if the person fails to comply with such order, may deal with the matter as if it were a contempt of that Court.
- (3) Subsection (1)(h) does not apply to the Registrar or any other member of staff of the Appeals Tribunal in relation to evidence or contents of documents published to other members of that staff or to members of that Tribunal.]

**Annotations****Amendments:**

**F340** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F341**[Act or omission that is both an offence and contempt.

**57AO.**—(1) An act or omission may be punished as a contempt of the Appeals Tribunal even though it could be punished as an offence.

(2) An act or omission may be punished as an offence even though it could be punished as a contempt of the Appeals Tribunal.

(3) If an act or omission constitutes both an offence and a contempt of the Appeals Tribunal, the offender is not liable to be punished twice.]

**Annotations****Amendments:**

**F341** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F342**[Appeals Tribunal to have seal.

**57AP.**—The Appeals Tribunal is required to have a seal, which is to be judicially noticed.]

**Annotations****Amendments:**

**F342** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F343**[Authentica-  
tion of docu-  
ments.

**57AQ.**—Every document requiring authentication by the Appeals Tribunal is sufficiently authenticated without the seal of that Tribunal if it is signed by the Chairperson, the Deputy Chairperson or the Registrar.]

**Annotations****Amendments:**

**F343** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F344**[Judicial  
notice to be  
taken of certain  
signatures.

**57AR.**—Judicial notice is to be taken of the signature of the Chairperson, the Deputy Chairperson or the Registrar when appearing on a document issued by the Appeals Tribunal.]

**Annotations****Amendments:**

**F344** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F345**[Proof of  
certain matters  
not required.

**57AS.**—In any legal proceedings, no proof is required (unless evidence to the contrary is given) of—

(a) the constitution of the Appeals Tribunal, or

(b) any decision of that Tribunal, or

(c) the appointment, or the holding of office by, a member of that Tribunal or the Registrar.]

**Annotations****Amendments:**

**F345** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F346**[Protection of barristers, solicitors, witnesses and others.

**57AT.**—(1) A barrister, solicitor or other person appearing before the Appeals Tribunal on behalf of a party has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(2) Subject to this Part and the rules, a person summoned to attend or appearing before the Appeals Tribunal as a witness has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities, as a witness in proceedings in the High Court.]

#### Annotations

#### Amendments:

**F346** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F347**[Allowances and expenses of witnesses.

**57AU.**—(1) A person (other than an employee of the Bank or a civil servant for the purposes of the Civil Service Regulation Acts 1956 to 1996) who is required to appear or give evidence before the Appeals Tribunal is entitled to be paid such allowances and expenses as are ascertained in accordance with a scale of allowances and expenses prescribed by regulations made under section 57AZ for the purposes of this section.

(2) Subject to subsection (3), the allowances and expenses are to be paid by the party at whose request a witness is summoned.

(3) The Appeals Tribunal may order the allowances and expenses of a witness referred to in subsection (2) to be paid wholly or partly by the Bank.]

#### Annotations

#### Amendments:

**F347** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F348**[Notices, service and lodgement of documents.

**57AV.**—(1) For the purposes of this Part, a notice or document may be given to a person (or a notice or document may be served on a person)—

(a) in the case of a natural person, by—

(i) delivering it to the person personally, or

(ii) leaving it at, or by sending it by pre-paid post to, the residential or business address of the person last known to the person serving the document, or

**F349**[(b) in the case of a body corporate — by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

(c) ...]

(2) A notice or other document may be served on the Appeals Tribunal by leaving it at, or by sending it by post to (or a document that is required or permitted to be lodged with that Tribunal may be lodged at)—

(a) the office of the Registrar, or

(b) if the Registrar has more than one office, any one of those offices.

(3) Nothing in this section affects the operation of any provision of any law or the rules of a court authorising a document to be served in a manner not provided for by this section.

(4) The rules may—

(a) provide for other means of serving, giving or lodging any notice or document, and

(b) provide for a notice or document of a class specified by the rules to be served, given or lodged only in the manner prescribed by the rules.]

#### Annotations

#### Amendments:

**F348** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F349** Substituted and deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 73, S.I. No. 469 of 2010.

**F350**[Annual report of the Appeals Tribunal.

**57AW.**—(1) Not later than 3 months after the end of each financial year, the Chairperson shall provide the Minister and the Board with a report on the operations of the Appeals Tribunal for that year.

(2) As soon as practicable after receiving the report, the Minister shall arrange for it to be laid before both Houses of the Oireachtas.

(3) The Registrar is required to publish the report as soon as practicable after becoming aware that the report has been laid in accordance with subsection (2). All members of the public are entitled to obtain a copy of the report on payment of such reasonable charge as may be fixed by the Chairperson in consultation with the other members.]

#### Annotations

#### Amendments:

**F350** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F351**[How the cost of operating the Appeals Tribunal is to be met.

**57AX.**—(1) The cost of operating the Appeals Tribunal is to be met from funds provided in accordance with this section.

(2) Not later than 3 months before the beginning of each financial year, or within such extended period as the Minister may allow, the Chairperson of the Appeals Tribunal shall—

(a) prepare a statement setting out estimates of that Tribunal's expected income and expenditure for that year (including the cost of providing remuneration and other amounts to its members and to its staff), and

(b) submit the statement to the Minister for approval.

(3) The Minister may approve the statement either without amendment or with such amendment as may be agreed with the Chairperson, but in doing so is required to have regard to the Rome Treaty and the ESCB Statute.

(4) As soon as practicable after approving the statement, the Minister shall direct the Bank to pay to the Registrar such amount as the Minister specifies as being necessary to meet the cost of operating the Appeals Tribunal during the financial year concerned, after taking into account any income likely to be received by that Tribunal.

(5) The Bank is required to comply with a direction given under subsection (4) within such period or periods as are specified in the direction. The amounts required to be paid under the direction are a charge on the general fund of the Bank.]

#### Annotations

#### Amendments:

**F351** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F352**[Registrar to keep proper accounting records.

**57AY.**—(1) The Registrar shall keep all proper accounting records in respect of all money received and spent by or in respect of the Appeals Tribunal.

(2) The Registrar shall open and maintain such bank accounts as are necessary for the operation of the Appeals Tribunal and shall ensure—

(a) that all money received for that Tribunal is banked as soon as practicable after it is received, and

(b) that no money is paid out of any of those accounts without the authority of the Chairperson.]

#### Annotations

#### Amendments:

**F352** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

**F353**[Government may make regulations with respect to the Appeals Tribunal.

**57AZ.**—The Government may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Part is required or permitted to be prescribed by regulation.]

#### Annotations

#### Amendments:

**F353** Part VIIA (ss. 57A-57AZ) inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 28, S.I. No. 454 of 2004, subject to transitional provisions in s. 36 and sch. 3.

## F354[PART VIIB

## FINANCIAL SERVICES OMBUDSMAN

## CHAPTER 1

*Interpretation and objects of Part]***Annotations****Amendments:**

**F354** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**Modifications (not altering text):**

**C23** Definition for purposes of Part extended (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman) Regulations 2005* (S.I. No. 191 of 2005, regs. 2, 3).

**Extension of definition of “regulated financial services provider” for the purposes of Part VIIB of the Central Bank Act 1942 (Financial Services Ombudsman)**

2. The following classes of persons are specified as being regulated financial service providers for the purposes of paragraph (c) of the definition of “regulated financial service provider” in section 2(1) of the Central Bank Act 1942 (as amended by section 2 of the Central Bank and Financial Services Authority of Ireland Act 2004):

- (a) credit intermediaries who are required to be authorised by the Director of Consumer Affairs under Part IX of the Consumer Credit Act 1995 (No. 24 of 1995);
- (b) pawnbrokers who are required to be authorised by the Director of Consumer Affairs under Part XV of the Consumer Credit Act 1995;
- (c) creditors with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the contract for the provision of credit to a consumer, and under any contract of guarantee relating to the provision of that credit;
- (d) owners of goods that are subject to a hire-purchase agreement under a hire-purchase agreement with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the agreement, and under any contract of guarantee relating to the agreement or any right to recover the goods from the hirer under the agreement;
- (e) owners of goods that are subject to a consumer-hire agreement with respect to the performance of their obligations under the Consumer Credit Act 1995 and under the agreement, and under any contract of guarantee relating to the agreement or any right to recover the goods from the hirer under the agreement;
- (f) mortgage lenders within the meaning of section 2 of the Consumer Credit Act 1995;
- (g) the Voluntary Health Insurance Board established under the Voluntary Health Insurance Act 1957 (No. 1 of 1957).

**Saving**

3. Nothing in Regulation 2 affects the application of the provisions of the Central Bank Act 1942 (apart from Part VIIB) to any of the classes of persons mentioned in that Regulation to the extent (if any) that those classes fall within paragraph (a) or (b) of the definition of “regulated financial service provider” in section 2(1) of the Central Bank Act 1942 (as amended by section 2 of the Central Bank and Financial Services Authority of Ireland Act 2004).

F354[Definitions. **57BA.—In this Part—**

‘Bureau’ means the Financial Services Ombudsman’s Bureau;

‘Bureau staff member’ means a person appointed under section 57BN;

‘complaint’ means a complaint made by a consumer under this Part about the conduct of a regulated financial service provider;

‘conduct’ includes alleged conduct;

‘consumer’ means—

(a) a natural person when not acting in the course of, or in connection with, carrying on a business, or

(b) a person, or group of persons, of a class prescribed by Council regulations;

‘Council’ means the Financial Services Ombudsman Council established by section 57BC;

‘Council regulations’ means regulations made by the Council under section 57BF and in force;

‘eligible consumer’, in relation to a regulated financial service provider, means a consumer—

(a) who is a customer of the financial service provider, or

(b) to whom the financial service provider has offered to provide a financial service, or

(c) who has sought the provision of a financial service from the financial service provider;

‘investigation’ means an investigation of a complaint;

‘parties’ in relation to a complaint, means the complainant, the regulated financial service provider against whom the complaint is made, and any other person who, in the opinion of the Financial Services Ombudsman, should be treated as a party to the complaint;

‘Pensions Ombudsman’ means the person holding or acting in the office of Pensions Ombudsman under section 128 of the Pensions Act 1990.]

#### Annotations

#### Amendments:

**F354** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### Modifications (not altering text):

**C24** Definition of “consumer” extended (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005* (S.I. No. 190 of 2005), reg. 2, commenced as per reg. 1(2).

#### Extension of definition of “consumer” for the purpose of Section 57BA.

2. The following classes of persons are prescribed by Council as consumers for the purposes of subsection (b) of the definition of “consumer” in Section 57BA of the Central Bank Act 1942 (as amended by Section 16 of the Central Bank and Financial Services Authority Act of Ireland Act 2004).

a. A person or group of persons, but not an incorporated body with an annual turnover in excess of 3 million euro. For the avoidance of doubt a group of persons includes partnerships and other unincorporated bodies such as clubs, charities and trusts, not consisting entirely of bodies corporate, and



- b. incorporated bodies having an annual turnover of 3 million euro or less in the financial year prior to year in which the complaint is made to the Ombudsman (provided that such body shall not be a member of a group of companies having a combined turnover greater than the said 3 million euro).

F355[Objects of this Part.

**57BB.**—The objects of this Part are as follows:

- (a) to establish the Financial Services Ombudsman as an independent officer—
- (i) to investigate, mediate and adjudicate complaints made in accordance with this Part about the conduct of regulated financial service providers involving the provision of a financial service, an offer to provide such a service or a failure or refusal to provide such a service, and
  - (ii) to exercise such other jurisdiction as is conferred on the Financial Services Ombudsman by this Part;
- (b) to ensure that the Financial Services Ombudsman and the staff of the Financial Services Ombudsman's Bureau are accessible and that complaints about the conduct of regulated financial service providers are dealt with efficiently and effectively and are adjudicated fairly;
- (c) to enable such complaints to be dealt with in an informal and expeditious manner;
- (d) to improve public understanding of issues related to complaints against regulated financial service providers and related consumer protection matters.]

#### Annotations

#### Amendments:

**F355** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

## F356[CHAPTER 2

### *Financial Services Ombudsman Council*

Establishment of Financial Services Ombudsman Council.

**57BC.**—(1) There is established by this section a Council called the 'Financial Services Ombudsman Council'.

(2) The Council is to consist of such number of persons, not fewer than 5 nor more than 10, as the Minister decides.

(3) The Minister shall appoint the members of the Council, but only after consulting the Minister for Enterprise, Trade and Employment. At least one of the members (other than the Chairperson) must be a person who has knowledge or experience of consumer protection and other consumer issues relating to the provision of financial services and at least one of the other members must be a person who has knowledge or experience of the financial services industry.

(4) The Minister shall appoint a Chairperson from among the members of the Council who have knowledge or experience of consumer issues relating to the provision of financial services.

(5) A member of the Council holds office for such period, not exceeding 5 years, as is specified in the member's document of appointment, unless the member ceases to hold office under Schedule 6.

(6) Such a member is eligible for reappointment.

(7) Schedule 6 has effect with respect to the Council.]

#### Annotations

#### Amendments:

**F356** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F357**[Functions and powers of Financial Services Ombudsman Council.

**57BD.—**(1) The functions of the Council are—

- (a) to prescribe guidelines under which the Financial Services Ombudsman is to operate, and
- (b) to determine the levies and charges payable for the performance of services provided by the Financial Services Ombudsman, and
- (c) to appoint the Financial Services Ombudsman and all Deputy Financial Services Ombudsmen, and
- (d) to keep under review the efficiency and effectiveness of the Bureau and to advise the Minister, either at the Minister's request or on its own initiative, on any matter relevant to the operation of the Bureau, and
- (e) to advise the Ombudsman on any matter on which the Ombudsman seeks advice, and
- (f) to carry out such other activities as are prescribed by this Part.

(2) The Council has no role with respect to how the Financial Services Ombudsman deals with a particular complaint.

(3) The Council has such powers as are necessary to enable it to perform its functions.]

#### Annotations

#### Amendments:

**F357** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F358**[Council may impose levies and fees for the purposes of this Part.

**57BE.—**(1) The purpose of this section is to enable the Financial Services Ombudsman to have sufficient funds to enable that Ombudsman to perform the functions imposed, and to exercise the powers conferred, on that Ombudsman by this or any other Act.

(2) Council Regulations may prescribe levies or fees to be paid by specified classes of financial service providers.

(3) Without limiting subsection (2), Council Regulations may provide for any of the following matters:

- (a) the persons, or classes of persons, who are required to pay specified kinds of levies or fees;
- (b) the amounts of those levies or fees;
- (c) the periods in respect of which, or the dates by which, specified levies or fees are to be paid to the Financial Services Ombudsman;
- (d) penalties that are payable by a person who fails to pay a levy on time or pay a required fee;
- (e) the keeping of records, and the making of returns to the Financial Services Ombudsman, by persons who are liable to pay a specified levy or a specified fee;
- (f) the collection and recovery of levies and fees.

(4) The Council may, by proceedings brought in a court of competent jurisdiction, recover as a debt an amount of levy or fee payable under Council Regulations made for the purpose of this section.]

#### Annotations

#### Amendments:

**F358** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### Editorial Notes:

- E142** Power pursuant to ss. 57BE and 57BF exercised (19.12.2012) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2012* (S.I. No. 506 of 2012).
- E143** Power pursuant to ss. 57BE and 57BF exercised (22.12.2011) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2011* (S.I. No. 674 of 2011).
- E144** Power pursuant to ss. 57BE and 57BF exercised (13.12.2010) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2010* (S.I. No. 576 of 2010), as amended (22.12.2011) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2011* (S.I. No. 674 of 2011).
- E145** Power pursuant to ss. 57BE and 57BF exercised (7.12.2009) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies And Fees Regulations 2009* (S.I. No. 500 of 2009), as amended (13.12.2010) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2010* (S.I. No. 576 of 2010).
- E146** Power pursuant to ss. 57BE and 57BF exercised (19.12.2008) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2008* (S.I. No. 576 of 2008), as amended (7.12.2009) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies And Fees Regulations 2009* (S.I. No. 500 of 2009).
- E147** Power pursuant to ss. 57BE and 57BF exercised (31.10.2007) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2007* (S.I. No. 726 of 2007), as amended (19.12.2008) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2008* (S.I. No. 576 of 2008).
- E148** Power pursuant to ss. 57BE and 57BF exercised (7.11.2006) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2006* (S.I. No. 556 of 2006), as amended (31.10.2007) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2007* (S.I. No. 726 of 2007).

**E149** Power pursuant to ss. 57BE and 57BF exercised (15.12.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 3) 2005* (S.I. No. 828 of 2005), as amended (7.11.2006) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2006* (S.I. No. 556 of 2006).

**E150** Power pursuant to ss. 57BE and 57BF exercised (22.06.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 2) 2005* (S.I. No. 330 of 2005). Note: this S.I. as published was incomplete.

**E151** Power pursuant to ss. 57BE and 57BF exercised (15.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2005* (S.I. No. 329 of 2005), as amended (15.12.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 3) 2005* (S.I. No. 828 of 2005).

**F359**[Council to make regulations for the purposes of this Part.

**57BF.—**(1) The Council shall make regulations for or with respect to matters—

- (a) that are, by this Part, required or permitted to be prescribed, or
- (b) that are necessary or convenient to be prescribed for the purpose of enabling the Financial Services Ombudsman to perform the functions imposed, and to exercise the powers conferred, on that Ombudsman by this Part.

(2) In particular, a regulation under subsection (1) may do any of the following:

- (a) prescribe matters that the Financial Services Ombudsman must take into account when investigating or adjudicating a complaint;
- (b) prescribe procedures to be followed in processing a complaint;
- (c) specify circumstances in which the Financial Services Ombudsman can dismiss a complaint without considering its merits;
- (d) specify the place or places at which the Financial Services Ombudsman is required to make available copies of any report that that Ombudsman is, by a provision of this Part, required to prepare or publish.

(3) Regulations under this section can be made either on the initiative of the Council or at the request of the Financial Services Ombudsman, but they do not take effect until the Minister has consented to them in writing.

(4) As soon as practicable after the Minister has consented to regulations in accordance with subsection (3), the Council shall arrange to lay them before each House of the Oireachtas.

(5) A House of the Oireachtas may pass a resolution annulling regulations laid before the House in accordance with subsection (4), but only within 21 sitting days after they are laid.]

#### Annotations

#### Amendments:

**F359** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### Editorial Notes:

**E152** Power pursuant to ss. 57BE and 57BF exercised (19.12.2012) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2012* (S.I. No. 506 of 2012).

- E153** Power pursuant to ss. 57BE and BF exercised (22.12.2011) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2011* (S.I. No. 674 of 2011).
- E154** Power pursuant to ss. 57BE and 57BF exercised (13.12.2010) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2010* (S.I. No. 576 of 2010), as amended (22.12.2011) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2011* (S.I. No. 674 of 2011).
- E155** Power pursuant to ss. 57BE and 57BF exercised (7.12.2009) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies And Fees Regulations 2009* (S.I. No. 500 of 2009), as amended (13.12.2010) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2010* (S.I. No. 576 of 2010).
- E156** Power pursuant to ss. 57BE and 57BF exercised (19.12.2008) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2008* (S.I. No. 576 of 2008), as amended (7.12.2009) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies And Fees Regulations 2009* (S.I. No. 500 of 2009).
- E157** Power pursuant to ss. 57BE and 57BF exercised (31.10.2007) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2007* (S.I. No. 726 of 2007), as amended (19.12.2008) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2008* (S.I. No. 576 of 2008).
- E158** Power pursuant to ss. 57BE and 57BF exercised (7.11.2006) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2006* (S.I. No. 556 of 2006), as amended (31.10.2007) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2007* (S.I. No. 726 of 2007).
- E159** Power pursuant to ss. 57BE and 57BF exercised (15.12.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 3) 2005* (S.I. No. 828 of 2005), as amended (7.11.2006) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2006* (S.I. No. 556 of 2006).
- E160** Power pursuant to ss. 57BE and 57BF exercised (22.06.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 2) 2005* (S.I. No. 330 of 2005). Note: this S.I. as published was incomplete.
- E161** Power pursuant to ss. 57BE and 57BF exercised (15.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations 2005* (S.I. No. 329 of 2005), as amended (15.12.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Levies and Fees Regulations (No. 3) 2005* (S.I. No. 828 of 2005).
- E162** Power pursuant to s. 57BF exercised (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005* (S.I. No. 190 of 2005).

**F360**[Council chairperson to provide Minister with reports.

**57BG.**—The chairperson of the Council is required to provide the Minister with such reports relating to the activities of the Bureau as the Minister requires from time to time. However, such a report must not include particulars or comments on any complaint that is being or has been investigated by the Financial Services Ombudsman.]

#### Annotations

#### Amendments:

- F360** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F361**[Council chairperson to appear before Oireachtas committee when required.]

**57BH.**—(1) The chairperson of the Council is required to attend a meeting of a joint committee of the Houses of the Oireachtas whenever asked to do so by the committee and to provide such information (including documents) as the committee specifies and as is in the possession of, or is available to, that chairperson.

(2) Such a committee is not entitled to request the chairperson of the Council to provide information relating to any complaint that is then being investigated, mediated or adjudicated by the Financial Services Ombudsman. The chairperson must refuse to comply with a request from the committee to provide it with any such information.]

#### Annotations

#### Amendments:

**F361** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

### F362[CHAPTER 3

#### *Financial Services Ombudsman's Bureau*

Financial Services Ombudsman's Bureau.

**57BI.**—(1) There is established by this section a bureau called the 'Financial Services Ombudsman's Bureau'.

(2) The Bureau consists of the Financial Services Ombudsman, each Deputy Financial Services Ombudsman and the staff members holding office under section 57BN.]

#### Annotations

#### Amendments:

**F362** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F363**[Financial Services Ombudsman.]

**57BJ.**—(1) The Council shall, whenever the occasion requires, appoint a suitably qualified person to be the Financial Services Ombudsman. However, if a person has been appointed as Financial Services Ombudsman or as Financial Services Ombudsman designate before the commencement of this section, that person is taken to have been appointed by the Council under this subsection.

(2) Subject to Schedule 7, a person appointed as the Financial Services Ombudsman holds office for such period, not exceeding 6 years, as is specified in the document of appointment.

(3) Such a person is eligible for reappointment at the end of a period of office.

(4) A person is not eligible for appointment as the Financial Services Ombudsman 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, or

(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 or is, with the person's consent, nominated as a candidate for election as such a member.]

#### Annotations

#### Amendments:

**F363** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F364**[Functions and powers of Financial Services Ombudsman.

**57BK.**—(1) The principal function of the Financial Services Ombudsman is to deal with complaints made under this Part by mediation and, where necessary, by investigation and adjudication.

(2) Subject to this Part, the Financial Services Ombudsman has such powers as are necessary to enable that Ombudsman to perform the principal function referred to in subsection (1).

(3) The Financial Services Ombudsman may authorise any Deputy Financial Services Ombudsman or any other Bureau staff member, by name, office or appointment, to perform any of the functions, or exercise any of the powers, imposed or conferred on the Financial Services Ombudsman by this or any other Act.

(4) The Financial Services Ombudsman is entitled to perform the functions imposed, and exercise the powers conferred, by this Act free from interference by any other person and, when dealing with a particular complaint, is required to act in an informal manner and according to equity, good conscience and the substantial merits of the complaint without regard to technicality or legal form.]

#### Annotations

#### Amendments:

**F364** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F365**[Deputy Financial Services Ombudsman.

**57BL.**—(1) The Financial Services Ombudsman Council shall, whenever the occasion requires, appoint one or more suitably qualified persons to be Deputy Financial Services Ombudsman. However, if a person has been appointed as a Deputy Financial Services Ombudsman or as a Deputy Financial Services Ombudsman designate before the commencement of this section, that person is taken to have been appointed by the Council under this subsection.

(2) Subject to Schedule 7, a person appointed as a Deputy Financial Services Ombudsman holds office for such period, not exceeding 6 years, as is specified in the document of appointment.

(3) Such a person is eligible for reappointment at the end of a period of office.

(4) A person is not eligible for appointment as a Deputy Financial Services Ombudsman 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, or



(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 or is, with the person's consent, nominated as a candidate for election as such a member.

(5) Within the scope of the authority conferred by the Financial Services Ombudsman, a Deputy Financial Services Ombudsman may perform any of the functions, or exercise any of the powers, of the Financial Services Ombudsman imposed or conferred on the Financial Services Ombudsman by this or any other Act.

(6) Any act done or omitted to be done in accordance with subsection (5) is taken to have been done or omitted to have been done by the Financial Services Ombudsman.

(7) A Deputy Financial Services Ombudsman is entitled to perform the functions and exercise the powers under subsection (5) free from interference by any other person, except that that Ombudsman shall—

(a) comply with directions given by the Financial Services Ombudsman, and

(b) keep the Financial Services Ombudsman informed about the progress made with respect to dealing with complaints that are assigned to the Deputy Financial Services Ombudsman.]

#### Annotations

#### Amendments:

**F365** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F366**[Acting Financial Services Ombudsman.

**57BM.**—(1) The Council shall appoint the Deputy Financial Services Ombudsman, or, if there are two or more such Ombudsmen, one of those Ombudsmen, to act as Financial Services Ombudsman during the absence of the Financial Services Ombudsman or during a vacancy in the office of that Ombudsman.

(2) No one is entitled to question the appointment under this section of a Deputy Financial Services Ombudsman to act as Financial Services Ombudsman.

(3) A Deputy Financial Services Ombudsman is, when acting as the Financial Services Ombudsman, taken to be that Ombudsman.]

#### Annotations

#### Amendments:

**F366** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F367**[Bureau staff.

**57BN.**—(1) Subject to this section, the Financial Services Ombudsman is responsible for appointing and employing persons necessary for the proper functioning of the Bureau.

(2) Persons may be appointed under subsection (1) on a permanent, temporary or part-time basis or as consultants.



(3) Persons appointed under subsection (1) are to be employed on such terms and conditions (including conditions as to remuneration and allowances) as the Council determines. In making a determination under this subsection, the Council is to have regard to—

(a) the Government's policy with respect to the remuneration of public sector employees, and

(b) any directions that the Minister may give from time to time for the purpose of giving effect to that policy.

(4) Within the scope of the authority conferred by the Financial Services Ombudsman, a person appointed under subsection (1) may perform any of the functions, or exercise any of the powers, imposed or conferred on the Financial Services Ombudsman by this or any other Act.

(5) Any act done or omitted to be done in accordance with subsection (4) is taken to have been done or omitted to have been done by the Financial Services Ombudsman.

(6) A Bureau staff member is entitled to perform the functions and exercise the powers authorised under subsection (4) free from interference from any other person, except that the staff member shall—

(a) comply with directions given by the Financial Services Ombudsman or a Deputy Financial Services Ombudsman, and

(b) keep the Financial Services Ombudsman, or the appropriate Deputy Financial Services Ombudsman, informed about the progress made with respect to dealing with complaints that are assigned to the staff member.

(7) Schedule 7 has effect with respect to the Financial Services Ombudsman, the Deputy Financial Services Ombudsman and the members of the Bureau staff appointed under this section.]

#### Annotations

#### Amendments:

**F367** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F368**[Immunity of Financial Services Ombudsman and others.

**57BO.**—(1) A Bureau staff member is not liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings in respect of any act done, or omitted to be done, in the course of performing a function imposed, or exercising a power conferred, on the member by or under this or any other Act unless it is proved that the act was done, or omitted to be done, in bad faith.

(2) Civil or criminal proceedings in respect of any act or omission referred to in subsection (1) may be brought against a Bureau staff member only with the leave of the High Court.

(3) The High Court may grant leave under subsection (2) only if satisfied that there is substantial evidence that the person to be proceeded against has acted, or omitted to act, in bad faith.

**F369**[(4) For the purposes of this section, 'bureau staff member' includes the Financial Services Ombudsman, each of the Deputy Financial Services Ombudsmen and each of the members of the Financial Services Ombudsman Council.]]

**Annotations****Amendments:**

**F368** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F369** Substituted (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(d), S.I. No. 730 of 2007.

**F370[CHAPTER 4***Accounts and reports*

Financial Services Ombudsman to ensure proper accounts are kept in respect of the Bureau.

**57BP.**—(1) The Financial Services Ombudsman shall ensure that accounting records are kept that properly record and explain the financial transactions of or relating to the Bureau.

(2) The Financial Services Ombudsman shall ensure that the accounting records relating to the Bureau comply with the accounting standards (if any) notified in writing to the Financial Services Ombudsman by the Council, acting on the advice of the Minister.

(3) The Financial Services Ombudsman shall ensure that the accounting records relating to the Bureau are kept for 6 years after the transactions to which they relate are completed. The Financial Services Ombudsman may, at the end of that period, direct that those records be retained or arrange for them to be disposed of in such manner as that Ombudsman considers appropriate. This subsection has effect despite any other enactment to the contrary.

(4) The Financial Services Ombudsman is required to make the accounting records available at all reasonable times for inspection by any member of the Council who requests to see them.]

**Annotations****Amendments:**

**F370** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F371**[Financial Services Ombudsman to arrange for preparation of annual statement of accounts.

**57BQ.**—(1) Within 4 months after the end of each financial year, the Financial Services Ombudsman shall arrange for the preparation and transmission to the Comptroller and Auditor General of a statement of accounts for the year. The statement must be in a form approved by the Council acting in consultation with the Minister. A form of statement approved under this subsection remains in force until superseded by another form of statement so approved.

(2) The Comptroller and Auditor General shall audit and report on the statement of accounts and, as soon as practicable after completing the report, give the report and the statement to the Financial Services Ombudsman and to the Council.]

**Annotations****Amendments:**

**F371** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F372**[Financial Services Ombudsman to prepare annual report of activities of the Bureau.

**57BR.—**(1) The Financial Services Ombudsman shall, not later than 6 months after the end of a financial year—

(a) prepare an annual report specifying the activities of the Bureau during that year, and

(b) submit the report to the Council.

(2) An annual report must be in such form and deal with such matters as the Council has notified to the Financial Services Ombudsman and must include or be accompanied by the audited statement of accounts prepared for the financial year concerned.

(3) As soon as practicable after receiving an annual report, the Council shall deliver the report to the Minister.

(4) As soon as practicable after receiving an annual report, the Minister shall arrange for a copy of the report to be laid before both Houses of the Oireachtas.

(5) On becoming aware that subsection (4) has been complied with, the Financial Services Ombudsman shall arrange for the publication of the annual report.]

**Annotations****Amendments:**

**F372** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F373**[Financial Services Ombudsman to publish certain other reports.

**57BS.—**(1) Within 3 months after the end of each financial year, the Financial Services Ombudsman shall publish a report containing—

(a) a summary of all complaints made to that Ombudsman during the preceding financial year and of the results of the investigations into those complaints, and

(b) a review of trends and patterns in the making of complaints to that Ombudsman.

(2) The Financial Services Ombudsman may publish such a report more frequently than once a year if that Ombudsman thinks it would be in the public interest to do so.

(3) The Financial Services Ombudsman may, with the approval of the Council, publish reports on other matters relating to the operation of the Bureau.]

**Annotations****Amendments:**

**F373** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F374**[Financial Services Ombudsman to arrange for preparation of annual estimate of income and expenditure.

**57BT.**—(1) Not later than 3 months before the beginning of each financial year, or within such extended period as the Council may allow, the Financial Services Ombudsman shall arrange for—

- (a) the preparation of a statement setting out estimates of the income and expenditure relating to the Bureau for that year, and
- (b) submit the statement to the Council for approval.

(2) The statement must—

- (a) specify the amounts expected to be collected and recovered during the financial year concerned from the imposition of levies and fees under section 57BE, and
- (b) specify any other sources from which funds are expected to be obtained during that year to finance the Bureau's activities and the amounts expected to be raised from those sources, and

(c) specify the activities that the Bureau proposes to undertake during that year.

(3) Before submitting the statement to the Council for approval, the Financial Services Ombudsman shall provide it with particulars of the estimates referred to in subsection (1)(a). As soon as practicable after being provided with those particulars, the Council shall give the Financial Services Ombudsman its views on those estimates.]

**Annotations****Amendments:**

**F374** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F375**[Financial Services Ombudsman to prepare strategic plan.

**57BU.**—(1) The Financial Services Ombudsman shall, at least 3 months before the beginning of each financial year—

- (a) prepare for the year a strategic plan that complies with this section, and
- (b) submit the plan to the Council for its approval.

(2) A strategic plan must specify—

- (a) the objectives of the activities of the Bureau for the financial year concerned, and
- (b) the nature and scope of the activities to be undertaken, and
- (c) the strategies and policies for achieving those objectives, and
- (d) targets and criteria for assessing the performance of the Bureau, and

(e) the uses for which it is proposed to apply the Bureau's resources.

(3) If the Council has in writing notified the Financial Services Ombudsman of any requirements with respect to the form in which the strategic plan is to be prepared, the plan must comply with those requirements.

(4) As soon as practicable after approving a strategic plan, the Council shall deliver the plan to the Minister.

(5) As soon as practicable after receiving the Financial Services Ombudsman's strategic plan, the Minister shall arrange for a copy of the plan to be laid before both Houses of the Oireachtas.

(6) On becoming aware that subsection (5) has been complied with, the Financial Services Ombudsman shall—

(a) arrange for the publication of the strategic plan, and

(b) take all reasonably practical steps to implement it.]

#### Annotations

#### Amendments:

**F375** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F376**[Financial Services Ombudsman to provide Council and Minister with reports.

**57BV.**—(1) The Financial Services Ombudsman is required to provide the Council or the Minister with such reports relating to the activities of the Bureau as the Council or the Minister requires from time to time. However, such a report must not include particulars or comments on any complaint that is then being considered by the Financial Services Ombudsman.

(2) The obligation imposed by subsection (1) is in addition to that imposed by section 57BR.]

#### Annotations

#### Amendments:

**F376** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F377**[Financial Services Ombudsman to appear before Oireachtas committee when required.

**57BW.**—(1) The Financial Services Ombudsman is required to attend a meeting of a joint committee of the Houses of the Oireachtas whenever asked to do so by the committee and to provide such information (including documents) as the committee specifies and as is in the possession of, or is available to, that Ombudsman.

(2) Such a committee is not entitled to request the Financial Services Ombudsman to provide information relating to any complaint that is currently under investigation. The Financial Services Ombudsman must refuse to comply with a request from the committee to provide it with any such information.]

**Annotations****Amendments:**

**F377** Part VIIB (ss. 57BA-57CU) inserted (1.01.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F378[CHAPTER 5***How consumer complaints are to be dealt with*

Complaints about conduct of regulated financial service providers.

**57BX.**—(1) An eligible consumer may complain to the Financial Services Ombudsman about the conduct of a regulated financial service provider involving—

- (a) the provision of a financial service by the financial service provider, or
- (b) an offer by the financial service provider to provide such a service, or
- (c) a failure by the financial service provider to provide a particular financial service that has been requested.

(2) Except in the case of a complaint that may be within the jurisdiction of the Pensions Ombudsman, the Financial Services Ombudsman has sole responsibility for deciding whether or not a complaint is within that Ombudsman's jurisdiction.

(3) A consumer is not entitled to make a complaint if the conduct complained of—

- (a) is or has been the subject of legal proceedings before a court or tribunal, or
- (b) occurred more than 6 years before the complaint is made, or
- (c) relates to a matter that is within the jurisdiction of the Pensions Ombudsman, or
- (d) is of a class prescribed by Council Regulations.

(3A) Despite subsection (3)(a), the Financial Services Ombudsman may accept a complaint against a regulated financial service provider who has begun legal proceedings in relation to a matter to which the complaint relates, but only if that Ombudsman reasonably suspects that the regulated financial service provider has begun those proceedings in order to prevent the making of the complaint, or to frustrate or delay its investigation.

(4) A consumer is entitled to make a complaint in respect of the conduct of a regulated financial service provider even if the conduct complained of occurred before the commencement of this section provided the conduct did not occur more than 6 years before that commencement.

(5) For the purpose of subsections (3) and (4), conduct that is of a continuing nature is taken to have occurred at the time when it stopped and conduct that consists of a series of acts or omissions is taken to have occurred when the last of those acts or omissions occurred.

(6) A consumer is not entitled to make a complaint unless the consumer has previously communicated its substance to the regulated financial service provider concerned and has given that financial service provider a reasonable opportunity to deal with it.

(7) A complaint must be in writing. However, the Financial Services Ombudsman may receive a complaint that is not in writing if that Ombudsman considers it appro-

prate to do so. In that event, the Financial Services Ombudsman shall reduce the complaint to writing as soon as possible after receiving it.

(8) As soon as practicable after receiving a complaint about the conduct of a regulated financial service provider, the Financial Services Ombudsman shall provide the financial service provider with a copy of the complaint.

(9) The Financial Services Ombudsman may enter into an arrangement with a person under which that person will receive complaints on behalf of that Ombudsman.

(10) A complaint received by a person under such an arrangement is, for the purposes of this Part, taken to have been received by the Financial Services Ombudsman.

(11) If the F379[Bank] receives a complaint that appears to be within the jurisdiction of the Financial Services Ombudsman, it shall, without delay, refer the complaint to that Ombudsman for investigation. A complaint referred under this subsection is, for the purposes of this Part, taken to have been made under subsection (1) by the consumer concerned.]

#### Annotations

#### Amendments:

**F378** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F379** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F380**[Duty of Financial Services Ombudsman to investigate complaints.

**57BY.—**(1) The Financial Services Ombudsman shall investigate a complaint if satisfied that the complaint is within the jurisdiction of the Financial Services Ombudsman.

(2) If, immediately before the commencement of this section, a complaint about the conduct of a regulated financial service provider is being dealt with by mediation, investigation or adjudication by a person under a voluntary scheme for the mediation, investigation or adjudication of complaints about that kind of conduct, the Financial Services Ombudsman may, with the consent of the complainant and if satisfied that the complaint is within that Ombudsman's jurisdiction, continue with the mediation, investigation or adjudication of the complaint as if the complainant had made the complaint under this Part after that commencement.

(3) If, immediately before the commencement of this section, a complaint about the conduct of a regulated financial service provider is being dealt with by mediation, investigation or adjudication by the F381[Bank], that Ombudsman may, with the consent of the complainant and if satisfied that the complaint is within that Ombudsman's jurisdiction, continue with the mediation, investigation or adjudication of the complaint as if the complainant had made the complaint under this Part after that commencement.]

#### Annotations

#### Amendments:

**F380** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F381** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F382**[Financial Services Ombudsman may decline to investigate or to continue to investigate complaint.

**57BZ.**—(1) Without limiting section 57BY, the Financial Services Ombudsman can decide not to investigate a complaint, or to discontinue an investigation of a complaint, on the ground that—

- (a) the complaint is frivolous or vexatious or was not made in good faith, or
- (b) the subject-matter of the complaint is trivial, or
- (c) the conduct complained of occurred at too remote a time to justify investigation, or
- (d) there is or was available to the complainant an alternative and satisfactory means of redress in relation to the conduct complained of, or
- (e) the complainant has no interest or an insufficient interest in the conduct complained of.

(2) The Financial Services Ombudsman may make preliminary inquiries for the purpose of deciding whether a complaint should be investigated under this Part and may request the complainant to provide further written particulars of the complaint within a period specified by that Ombudsman.

(3) The Financial Services Ombudsman may decide not to continue to investigate a complaint if the complainant fails within a reasonable period to comply with a request for further written particulars.

**F383**[(4) As soon as practicable after deciding not to investigate a complaint, or to discontinue an investigation of a complaint, the Financial Services Ombudsman shall inform the complainant in writing of the decision and the reasons for the decision.]]

#### Annotations

#### Amendments:

**F382** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F383** Substituted (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(e), S.I. No. 730 of 2007.

**F384**[Financial Services Ombudsman to attempt to deal with complaint by mediation in first instance.

**57CA.**—(1) On receiving a complaint, the Financial Services Ombudsman shall, as far as possible, try to resolve the complaint by mediation.

(2) Participation in the mediation by the parties to a complaint is voluntary, and a party may withdraw at any time. The Financial Services Ombudsman may abandon an attempt to resolve a complaint by mediation on forming the view that the attempt is not likely to succeed.

(3) Evidence of anything said or admitted during a mediation, or an attempted mediation, of a complaint, and any document prepared for the purposes of the mediation, are not admissible—

- (a) in any subsequent investigation, under this Part, of the complaint (unless the person who made the admission, or to whom the document relates, consents to its admission), or



(b) in any proceedings before a court or a tribunal.

(4) If an attempt to resolve a complaint by mediation is unsuccessful, the Financial Services Ombudsman shall—

(a) deal with the complaint by adjudication, and

(b) notify the parties accordingly.]

#### Annotations

#### Amendments:

**F384** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F385**[Persons entitled to make certain submissions to Financial Services Ombudsman.

**57CB.**—When investigating a complaint, the Financial Services Ombudsman shall provide the parties with an opportunity to make submissions with respect to the conduct complained of.]

#### Annotations

#### Amendments:

**F385** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F386**[Financial Services Ombudsman to conduct investigations in private.

**57CC.**—The Financial Services Ombudsman shall ensure that investigations are conducted in private.]

#### Annotations

#### Amendments:

**F386** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F387**[Progress report to complainant.

**57CD.**—The Financial Services Ombudsman may, in the course of investigating a complaint, periodically report to the complainant on the progress of the investigation and, in so doing, may make such comments to the complainant on the investigation and its consequences and implications as that Ombudsman thinks fit.]

**Annotations****Amendments:**

**F387** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F388**[Financial Services Ombudsman can require regulated financial service provider to give information.]

**57CE.—(1)** To enable a complaint to be investigated, the Financial Services Ombudsman may require the regulated financial service provider concerned and any associated entity of that financial service provider—

- (a) to provide information either orally or in writing, or
- (b) to produce any document or other thing, or
- (c) to provide a copy of any document,

that appears to that Ombudsman to be relevant to the investigation. However, this subsection does not authorise the Financial Services Ombudsman to require the provision of information, or the production of a document or copy of a document, the communication of which is subject to legal professional privilege.

(2) A requirement under this section may be made orally or be in writing but must specify or describe the information, document or thing required, and must fix a time and specify a place for compliance.

(3) The power conferred by subsection (1) can be exercised in relation to a regulated financial service provider, or an associated entity of the financial service provider, irrespective of whether the Financial Services Ombudsman has entered the premises of the financial service provider in accordance with section 57CF.

(4) For the purpose of obtaining information relevant to investigating or adjudicating a complaint about the conduct of a regulated financial service provider, the Financial Services Ombudsman may—

- (a) summon any officer, member, agent or employee of the financial service provider to attend before that Ombudsman, and
- (b) examine on oath any such officer, member, agent or employee in relation to any matter that appears to that Ombudsman to be relevant to the investigation or adjudication.

(5) Without limiting subsection (4), the Financial Services Ombudsman has the same powers that a judge of the High Court has when hearing civil proceedings that are before that Court with respect to the examination of witnesses (including witnesses who are outside the State).

(6) A person who is summoned to appear before the Financial Services Ombudsman under this section is entitled to the same rights and privileges as a witness appearing in civil proceedings before the High Court.

(7) Information provided by a person in response to a requirement made under subsection (1), or an answer to a question put to a person in the course of an examination conducted under subsection (4), is not admissible as evidence against the person in criminal proceedings, other than proceedings for—

- (a) if the information or answer was provided on oath, perjury, or
- (b) an offence against section 57CH.]

**Annotations****Amendments:**

**F388** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F389** [Financial Services Ombudsman may enter premises of regulated financial service provider or associated entity of such a provider.

**57CF.—**(1) When investigating a complaint about the conduct of a regulated financial service provider, the Financial Services Ombudsman may, at any reasonable time—

- (a) enter and inspect any business premises occupied or used by the financial service provider or by any other body or person who appears to that Ombudsman to be associated with that provider, and
- (b) inspect any document or thing in or on the premises.

(2) If a document is kept in a non-legible form, the Financial Services Ombudsman may request the person apparently in charge of the document to reproduce it in a legible form or to give to that Ombudsman such information as that Ombudsman reasonably requires in relation to the document.]

**Annotations****Amendments:**

**F389** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F390** [Circuit Court may order person to comply with requirements, etc., of Financial Services Ombudsman.

**57CG.—**(1) The Financial Services Ombudsman may apply to the Circuit Court for a compliance order against a person if it appears to that Ombudsman that the person—

- (a) has failed to comply with a requirement made to the person by that Ombudsman under section 57CE, or
- (b) has failed to comply with a summons under that section to appear before that Ombudsman for examination, or
- (c) having complied with such a summons, has refused to be examined, or
- (d) has otherwise obstructed that Ombudsman in the exercise of a power conferred by this Part.

(2) If, on hearing an application seeking a compliance order against a person, the Circuit Court is satisfied that the person has failed or refused to do the act in question, the Circuit Court may make an order requiring the person to do that act.

(3) The Circuit Court may not hear an application for a compliance order unless—

- (a) the person against whom the order is sought appears at the hearing, or
- (b) the Court is satisfied that that person has been served with a copy of the application.

(4) On the hearing of an application for a compliance order against a person, the Circuit Court shall set aside a requirement made to the person—

- (a) to provide information, or

(b) to produce a document or other thing, or

(c) to provide a copy of a document,

if it is of the opinion that the person is entitled to claim legal professional privilege with respect to the provision of the information, the production of the document or thing or the provision of the copy.]

#### Annotations

#### Amendments:

**F390** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F391**[Obstruction of Financial Services Ombudsman in the performance or exercise of functions and powers.

**57CH.**—A person who—

(a) obstructs the Financial Services Ombudsman in the exercise of a power conferred by this Chapter, or

(b) without reasonable excuse, fails to comply with a requirement or request made by that Ombudsman under this Chapter, or

(c) in purported compliance with such a requirement or request, gives information that the person knows to be false or misleading, or

(d) refuses to comply with a summons to attend before, or to be examined on oath by, that Ombudsman,

commits an offence and is liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding 3 months, or both.]

#### Annotations

#### Amendments:

**F391** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F392**[Adjudication of complaints.

**57CI.**—(1) On completing an investigation of a complaint that has not been settled or withdrawn, the Financial Services Ombudsman shall make a finding in writing that the complaint—

(a) is substantiated, or

(b) is not substantiated, or

(c) is partly substantiated in one or more specified respects but not in others.

(2) A complaint may be found to be substantiated or partly substantiated only on one or more of the following grounds:

(a) the conduct complained of was contrary to law;

(b) the conduct complained of was unreasonable, unjust, oppressive or improperly discriminatory in its application to the complainant;

- (c) although the conduct complained of was in accordance with a law or an established practice or regulatory standard, the law, practice or standard is, or may be, unreasonable, unjust, oppressive or improperly discriminatory in its application to the complainant;
  - (d) the conduct complained of was based wholly or partly on an improper motive, an irrelevant ground or an irrelevant consideration;
  - (e) the conduct complained of was based wholly or partly on a mistake of law or fact;
  - (f) an explanation for the conduct complained of was not given when it should have been given;
  - (g) the conduct complained of was otherwise improper.
- (3) The Financial Services Ombudsman shall include in a finding—
- (a) reasons for the finding, and
  - (b) any direction given under subsection (4) as a result of the finding.
- (4) If a complaint is found to be wholly or partly substantiated, the Financial Services Ombudsman may direct the financial service provider to do one or more of the following:
- (a) to review, rectify, mitigate or change the conduct complained of or its consequences;
  - (b) to provide reasons or explanations for that conduct;
  - (c) to change a practice relating to that conduct;
  - (d) to pay an amount of compensation to the complainant for any loss, expense or inconvenience sustained by the complainant as a result of the conduct complained of;
  - (e) to take any other lawful action.
- (5) The Financial Services Ombudsman may not direct the payment of an amount of compensation exceeding an amount (if any) prescribed by Council Regulations.
- (6) A direction requiring a regulated financial service provider to pay an amount of compensation may provide for interest to be paid at a specified rate if the amount is not paid by a date specified in the direction.
- (7) The Financial Services Ombudsman shall give a copy of a finding under this section—
- (a) to the complainant, and
  - (b) to the regulated financial service provider to which the complaint relates.
- (8) If a finding under this section contains a direction under subsection (4), the financial service provider concerned—
- (a) shall comply with the direction within such period as is specified in the direction, or within such extended period as the Financial Services Ombudsman allows, and
  - (b) shall, within 14 days after the end of that period or extended period, notify in writing the Financial Services Ombudsman of action taken or proposed to be taken in consequence of the direction.
- (9) Subject to the outcome of any appeal against a finding of the Financial Services Ombudsman in respect of a complaint, the finding is binding on the complainant, the

regulated financial service provider concerned and every other person who is a party to the complaint.]

#### Annotations

#### Amendments:

**F392** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### Modifications (not altering text):

**C25** Compensation under section limited (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman Council) Regulations 2005* (S.I. No. 190 of 2005), reg. 3, commenced as per reg. 1(2).

#### Prescription of a maximum compensation amount for the purposes of Section 57CI(5) and Section 57CI(4)(d).

3. (a) The amount of 26,000 euro per annum is prescribed by Council as the maximum amount of compensation payable where the financial service the subject of a complaint is an annuity for the purposes of Section 57CI(5) and Section 57CI(4)(d) of the Central Bank Act 1942 (as amended by Section 16 of the Central Bank and Financial Services Authority Act of Ireland Act 2004).
- (b) The amount of 250,000 euro is prescribed by Council as the maximum amount of compensation payable in respect of all other complaints for the purposes of Section 57CI(5) and Section 57CI(4)(d) of the Central Bank Act 1942 (as amended by Section 16 of the Central Bank and Financial Services Authority Act of Ireland Act 2004).

...

**F393**[Enforcement of Financial Services Ombudsman's directions.

#### **57CJ.—(1) In this section—**

‘direction’ means a direction included in a finding made by the Financial Services Ombudsman under section 57CI;

‘enforcement order’ means an order of the Circuit Court to enforce a direction.

(2) If a regulated financial service provider fails to comply with a direction within the period, or by the date, specified in the direction, the Financial Services Ombudsman or the complainant in whose favour the finding was made may apply to the Circuit Court for an enforcement order in respect of the direction.

(3) The Circuit Court may not hear an application for an enforcement order unless—

- (a) the regulated financial service provider concerned appears at the hearing as respondent to the application, or
- (b) if that financial service provider does not appear at the hearing, the Court is satisfied that a copy of the application has been served on that financial service provider.

(4) On hearing an application for an order to enforce the direction, the Circuit Court shall, if satisfied that the direction was one that the Financial Services Ombudsman was empowered to make, make an order requiring the regulated financial service provider concerned to comply with the direction within a period, or by a date, specified in the order.

(5) The Circuit Court may not hear an application for an enforcement order in respect of a direction if the regulated financial service provider concerned has appealed against the finding in which the direction is included and either—

(a) the finding or direction has not been affirmed (with or without modification),  
or

(b) that financial service provider has not withdrawn the appeal.

(6) If, on the hearing of an application for an enforcement order, the Circuit Court is satisfied that, because of the lapse of time, it would not be possible for the regulated financial service provider concerned to comply with such an order, the Court shall make an order providing the complainant with such redress as it considers appropriate in the circumstances.

(7) If an enforcement order requires a regulated financial service provider to pay an amount of money, the Circuit Court may direct that financial service provider to pay to the complainant concerned interest on the amount for all or a specified part of the period—

(a) beginning 4 weeks after the date on which the direction was given to that financial service provider, and

(b) ending with the date of the order.

(8) The interest payable on such an amount is to be at the rate referred to in section 22 of the Courts Act 1981.]

#### Annotations

#### Amendments:

**F393** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

#### F394[CHAPTER 6

#### *References and Appeals under this Part to the High Court*

Financial Services Ombudsman may refer question of law to High Court.

**57CK.**—(1) When dealing with a complaint, the Financial Services Ombudsman may, on that Ombudsman's own initiative or at the request of the complainant or the regulated financial service provider concerned, refer for the opinion of the High Court a question of law arising in relation to the investigation or adjudication of the complaint.

(2) The High Court has jurisdiction to hear and determine any question of law referred to it under this section.

(3) If a question of law has been referred to the High Court under this section, the Financial Services Ombudsman may not—

(a) make a finding to which the question is relevant while the reference is pending,  
or

(b) proceed in a manner, or make a decision, that is inconsistent with the opinion of the High Court on the question.]

**Annotations****Amendments:**

**F394** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F395**[Right of appeal to High Court against Financial Services Ombudsman's finding.]

**57CL.**—(1) If dissatisfied with a finding of the Financial Services Ombudsman, the complainant or the regulated financial service provider concerned may appeal to the High Court against the finding.

(2) The Financial Services Ombudsman can be made a party to an appeal under this section.

(3) An appeal under this section must be made—

(a) within such period and in such manner as is prescribed by rules of court of the High Court, or

(b) within such further period as that Court may allow.]

**Annotations****Amendments:**

**F395** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F396**[Orders on appeal to the High Court relating to Financial Services Ombudsman's finding.]

**57CM.**—(1) The High Court is to hear and determine an appeal made under section 57CL and may make such orders as it thinks appropriate in light of its determination.

(2) The orders that may be made by the High Court on the hearing of such an appeal include (but are not limited to) the following:

(a) an order affirming the finding of the Financial Services Ombudsman, with or without modification;

(b) an order setting aside that finding or any direction included in it;

(c) an order remitting that finding or any such direction to that Ombudsman for review.

(3) If the High Court makes an order remitting to the Financial Services Ombudsman a finding or direction of that Ombudsman for review, that Ombudsman is required to review the finding or direction in accordance with the directions of the Court.

(4) The determination of the High Court on the hearing of such an appeal is final, except that a party to the appeal may apply to the Supreme Court to review the determination on a question of law (but only with the leave of either of those Courts).]



**Annotations****Amendments:**

**F396** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F397**[Appeal stays the finding of the Financial Services Ombudsman.

**57CN.**—A finding of the Financial Services Ombudsman does not take effect, and may not be implemented, while an appeal under section 57CL or an application under section 57CM(4) is pending in relation to the finding.]

**Annotations****Amendments:**

**F397** Part VIIB (ss. 57BA-57CU) inserted (1.04.2005 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F398**[CHAPTER 7*Supplementary provisions*

Protection and other provisions relating to disclosures of information.

**57CO.**—(1) A provision of any Act or law that prohibits or restricts the disclosure of information does not—

(a) operate to prevent or restrict the disclosure of information, or

(b) affect a duty to disclose information,

under this Part.

(2) A person who discloses information under or for the purpose of this Part does not incur liability for defamation or other civil liability only because of the disclosure.

(3) Nothing in this Part affects an obligation or power to provide information apart from this Part.]

**Annotations****Amendments:**

**F398** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F399**[Power of Court to grant injunctions in certain cases.

**57CP.**—(1) The High Court may, on an application made by the Financial Services Ombudsman, grant an injunction restraining conduct in which a regulated financial service provider is engaging or in which a regulated financial service provider appears likely to engage, if the conduct is conduct that is being investigated or is proposed to be investigated under this Part.

(2) The High Court may not grant an application under subsection (1) unless of the opinion that the conduct sought to be restrained is likely to prejudice or negate the effect or implementation of a decision that the Financial Services Ombudsman might make under this Chapter if that Ombudsman were to find the complaint to which the conduct relates is wholly or partly substantiated.

(3) The High Court may not require the Financial Services Ombudsman to give any undertaking as to damages as a condition for the granting of an injunction in consequence of an application referred to in subsection (1).]

#### Annotations

#### Amendments:

**F399** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F400**[Financial Services Ombudsman and Council to co-operate with **F401**[Bank] and others.

**57CQ.**—(1) The Council and the Financial Services Ombudsman shall co-operate with the **F401**[Bank] **F402**[...] and the Pensions Ombudsman with a view to ensuring that the provisions of this Part operate in a way that contributes to promoting the best interests of consumers of financial services and to the efficient and effective handling of complaints.

(1A) The Financial Services Ombudsman shall, whenever asked to do so by the **F401**[Bank], provide **F403**[the Bank] with records or copies of records, or information, dealing with specified matters, or matters of a specified kind, relevant to the performance of **F403**[the Bank]'s functions.

**F404**[(2) The Council and the Financial Services Ombudsman may make recommendations to the Bank and the Registrar of Credit Unions with respect to measures that the Bank and Registrar might take so as—

- (a) to effectively deal with persistent patterns of complaints made against specified regulated financial service providers or against a specified class of those financial service providers,
- (b) to improve the way in which regulated financial service providers deal with complaints that are made against them, or
- (c) to effectively deal with any other matter relating to promoting the interests of consumers of financial services.]

(3) As soon as practicable after the commencement of this section, the Financial Services Ombudsman, the Pensions Ombudsman and the **F401**[Bank] shall enter into a memorandum of understanding setting out the terms under which they agree to give effect to this section.]

#### Annotations

#### Amendments:

**F400** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F401** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(a), S.I. No. 469 of 2010.

**F402** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 74, S.I. No. 469 of 2010.

**F403** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(2)(b), S.I. No. 469 of 2010.

**F404** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 75, S.I. No. 469 of 2010.

#### F405[CHAPTER 8

#### *Reciprocal arrangements with corresponding agencies of other EEA Countries*

Definitions (Chapter 8) **57CR.—(1)** In this Chapter—

‘complaint’ includes a complaint within the meaning of the EEA Memorandum of Understanding;

‘EEA Memorandum of Understanding’ means the Memorandum of Understanding on a Cross-border Out-of-court Complaints Network for Financial Services in the European Economic Area or, if the memorandum is amended or is replaced by another memorandum, means the memorandum as so amended or that other memorandum.]

#### Annotations

#### Amendments:

**F405** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F406**[Financial Services Ombudsman may subscribe to EEA Memorandum of Understanding.

**57CS.—**The Financial Services Ombudsman may, with the approval of the Council, subscribe to the EEA Memorandum of Understanding.]

#### Annotations

#### Amendments:

**F406** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F407**[Financial Services Ombudsman may refer complaints to other EEA dispute settlement body.

**57CT.—**If the Financial Services Ombudsman subscribed to the EEA Memorandum of Understanding, that Ombudsman may refer a complaint made to that Ombudsman to another EEA dispute settlement body in accordance with the terms of that Memorandum.]

**Annotations****Amendments:**

**F407** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F408**[Financial Services Ombudsman may mediate, investigate and adjudicate complaints referred by other EEA dispute settlement bodies.]

**57CU.**—If the Financial Services Ombudsman has subscribed to the EEA Memorandum of Understanding, that Ombudsman may mediate, investigate and adjudicate on any complaint referred to that Ombudsman by another EEA dispute settlement body in accordance with the terms of that Memorandum.]

**Annotations****Amendments:**

**F408** Part VIIB (ss. 57BA-57CU) inserted (1.10.2004 this section) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 16, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F409**[PART VIIC

## CONSULTATIVE PANELS

## CHAPTER 1

*General*]**Annotations****Amendments:**

**F409** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F409**[Interpretation: Part VIIC.

**57CV.**—F410[...]]

**Annotations****Amendments:**

**F409** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F410** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**F411**[Establishment and membership of Consultative Panels.

**57CW.—F412[...]**

#### Annotations

#### Amendments:

**F411** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F412** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**F413**[CHAPTER 2

*Consultative Consumer Panel*

Membership of Consultative Consumer Panel.

**57CX.—F414[...]**

#### Annotations

#### Amendments:

**F413** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F414** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**F415**[Functions of Consultative Consumer Panel.

**57CY.—F416[...]**

#### Annotations

#### Amendments:

**F415** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F416** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

F417[Regulatory Authority to provide sufficient resources to enable Consultative Consumer Panel to function. 57CZ.—F418[...]]

**Annotations****Amendments:**

**F417** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F418** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

## F419[CHAPTER 3

*Consultative Industry Panel*

Membership of Consultative Industry Panel. 57DA.—F420[...]]

**Annotations****Amendments:**

**F419** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F420** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

F421[Functions of Consultative Industry Panel. 57DB.—F422[...]]

**Annotations****Amendments:**

**F421** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F422** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

F423[Regulatory Authority to provide sufficient resources to enable Consultative Industry Panel to function. 57DC.—F424[...]]

#### Annotations

#### Amendments:

**F423** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F424** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

#### F425[CHAPTER 4

#### *Provisions Applying to Both Consultative Panels*

Schedule 8 to have effect with respect to Consultative Panels. 57DD.—F426[...]]

#### Annotations

#### Amendments:

**F425** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F426** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

F427[Consultative Panel to prepare annual report. 57DE.—F428[...]]

#### Annotations

#### Amendments:

**F427** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F428** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**Editorial Notes:**

**E163** Previous affecting provision: application of subs. (3) restricted (21.01.2009) by *Anglo Irish Bank Corporation Act 2009* (1/2009), s. 13(6), commenced on enactment; superseded as per F-note above.

**F429**[Responsibilities of Regulatory Authority and Minister with respect to Consultative Panels. **57DF.**—F430[...]]

**Annotations****Amendments:**

**F429** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F430** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**Editorial Notes:**

**E164** Previous affecting provision: application of section restricted (21.01.2009) by *Anglo Irish Bank Corporation Act 2009* (1/2009), s. 13, commenced on enactment; superseded as per F-note above.

**F431**[Establishment and operation of advisory groups. **57DG.**—F432[...]]

**Annotations****Amendments:**

**F431** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F432** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

**F433**[Chairperson of Consultative Panel to attend meetings of relevant Oireachtas Joint Committee when required. **57DH.**—F434[...]]



**Annotations****Amendments:**

**F433** Part VIIC (ss. 57CV-57DH) inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 17, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F434** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 3, S.I. No. 469 of 2010.

## PART VIII.

## COINAGE.

Amendment of  
the Coinage Act,  
1926.

**58.—F435[...]****Annotations****Amendments:**

**F435** Part VIII (ss. 58-61) repealed (1.05.1951) by *Coinage Act 1950* (32/1950), s. 4 and sch. 1, S.I. No. 111 of 1951.

Amendment of  
the Gold and  
Silver (Export  
Control, etc.) Act,  
1920.

**59.—F436[...]****Annotations****Amendments:**

**F436** Part VIII (ss. 58-61) repealed (1.05.1951) by *Coinage Act 1950* (32/1950), s. 4 and sch. 1, S.I. No. 111 of 1951.

The issue of coins  
under the  
Coinage Act,  
1926.

**60.—F437[...]****Annotations****Amendments:**

**F437** Part VIII (ss. 58-61) repealed (1.05.1951) by *Coinage Act 1950* (32/1950), s. 4 and sch. 1, S.I. No. 111 of 1951.

Copyright in  
coins.

**61.—F438[...]**

**Annotations****Amendments:**

**F438** Part VIII (ss. 58-61) repealed (1.05.1951) by *Coinage Act 1950* (32/1950), s. 4 and sch. 1, S.I. No. 111 of 1951.

## F439[PART VIIIA

## REGULATIONS AND ORDERS]

**Annotations****Amendments:**

**F439** Part VIIIA (ss. 61A-61D) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 29, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

F439[Regulations for purposes of this Act.

**61A.—(1)** The Minister may, after consulting the Bank, make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed (other than a matter required or permitted to be prescribed by the Government or the Bank), or that is necessary or expedient to be prescribed, for carrying out or giving effect to this Act (Part VIIA excepted).

(2) A provision of a regulation under this Act may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors, or

(b) apply differently according to different factors of a specified kind, or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,

or may do any combination of those things.]

**Annotations****Amendments:**

**F439** Part VIIIA (ss. 61A-61D) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 29, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

**E165** Power pursuant to section exercised (1.04.2005) by *Central Bank Act 1942 (Financial Services Ombudsman) Regulations 2005* (S.I. No. 191 of 2005).

F440[Power to amend or revoke certain orders.

**61B.—(1)** If the effect of an order made by the Minister under this Act has not become spent, the Minister may, after consulting the Bank, by further order, amend or revoke the order.

(2) For the purpose of subsection (1), ‘amend’ includes add to, substitute and delete.]

**Annotations****Amendments:**

**F440** Part VIIIA (ss. 61A-61D) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 29, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**Editorial Notes:**

**E166** Power pursuant to section exercised (19.11.2004 and 1.04.2005) by *Central Bank and Financial Services Authority of Ireland Act 2004 (Commencement) Order (No. 2) 2004* (S.I. No. 760 of 2004).

**F441**[Regulations and orders to be laid before each House of Oireachtas.

**61C.**—The Minister shall arrange for every regulation made by **F442**[the Government, the Minister or the Bank], and every order made by the Government or the Minister, under this Act to be laid before each House of the Oireachtas as soon as practicable after it is made.]

**Annotations****Amendments:**

**F441** Part VIIIA (ss. 61A-61D) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 29, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F442** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 76, S.I. No. 469 of 2010.

**F443**[House of Oireachtas may annul regulation or order.

**61D.**—(1) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which a regulation or order was laid before it in accordance with section 61C, annul the regulation or order.

(2) The annulment of such a regulation or order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the regulation or order before the passing of that resolution.]

**Annotations****Amendments:**

**F443** Part VIIIA (ss. 61A-61D) inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 29, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F444**[Prosecution of offences.

**61DA.**—Proceedings for an offence under this Act, a designated enactment or a designated statutory instrument may be brought and prosecuted summarily by the Bank.]

**Annotations****Amendments:**

**F444** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 77, S.I. No. 469 of 2010.

**PART IX.****MISCELLANEOUS.**

**F445**[Bank and certain other persons required to consult.]

**61E.—(1)** This section applies to the following persons:

- (a) the Bank;
- (b) any delegate of the Bank;
- (c) the Pensions Board;
- (d) the Director of Consumer Affairs;
- (e) the Competition Authority;
- (f) the Registrar of Friendly Societies;
- (g) the Director of Corporate Enforcement;

**F446**[(ga) the Financial Services Ombudsman,

(gb) the Pensions Ombudsman,]

(h) any person whom the Minister (after consultation with the person) designates in writing for the purposes of this **F447**[section,]

**F446**[(i) any body established by or under an enactment for the purpose of supervising the conduct of auditors.]

(2) The persons to whom this section applies shall, whenever the occasion requires, consult with each other for the purpose of ensuring the establishment and pursuit of consistent policies regarding the regulation of financial services in the State.

(3) Nothing in this section authorises a person to whom this section applies to contravene section 33AK or any provision of a law that imposes an obligation of confidentiality on the person.]

**Annotations****Amendments:**

**F445** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 30, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F446** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 18, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F447** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 18, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F448**[Expenses incurred by Minister in administering this Act.

**61F.**—The expenses incurred by the Minister in administering this Act are payable out of money provided by the Oireachtas.]

#### Annotations

#### Amendments:

**F448** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 30, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F449**[How the Bank may give or serve notices and other documents.

**61G.**—(1) If a provision of this Act or the regulations, or a provision of a designated enactment or designated statutory instrument, requires or authorises the Bank **F450**[...] to give or serve a notice or other document, the notice or other document may be given or served—

(a) in the case of a natural person—

(i) by delivering the notice or other document to the person personally, or

(ii) by leaving the notice or other document at, or by sending it by prepaid post to, the person's residential or business address last known to the Bank or Regulatory Authority,

or

(b) in the case of a body corporate—

(i) by leaving the notice or other document at, or

(ii) by sending it by prepaid post to, the head office, a registered office or a principal office of the body corporate,

or

(c) in the case of a partnership—

(i) by delivering the notice or other document to one of the partners personally, or

(ii) by leaving the notice or other document at, or by sending it by prepaid post to the head office or a principal office of the partnership.

(2) Nothing in this section limits the operation of any provision of any law that requires or authorises a notice or other document to be given or served in a manner not provided for by this section.

(3) The regulations may—

(a) enable the Bank **F451**[...] to give or serve notices or other documents, or any specified class of notices or other documents, by a method other than one specified in subsection (1), and

(b) provide for a notice or document of a specified class to be given or served only in the manner prescribed by the regulations.]

**Annotations****Amendments:**

**F449** Inserted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 19, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F450** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 78, S.I. No. 469 of 2010.

**F451** Deleted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 79, S.I. No. 469 of 2010.

**F452**[Arrange-  
ments for collec-  
tion of certain  
levies.

**61H.—(1)** The Bank may enter into an arrangement with a prescribed body in relation to the collection of a levy.

(2) An arrangement referred to in subsection (1) is to be for the purpose of enabling the Bank or prescribed body to collect the relevant levy from each person or body obliged to pay it and pay the collected levy to the entity entitled to receive it.

(3) An arrangement referred to in subsection (1) shall provide for the costs associated with the collection of the levy concerned to be met by the entity entitled to receive the levy.

(4) In this section—

‘levy’ means a levy imposed under section 32D or any other enactment;

‘prescribed body’ means the following:

(a) the Pensions Board;

(b) the Financial Services Ombudsman;

(c) the Agency;

**F453**[(ca) the Credit Union Restructuring Board;]

(d) any other body prescribed by the Minister by regulations made for the purposes of this section.]

**Annotations****Amendments:**

**F452** Inserted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 80, S.I. No. 469 of 2010.

**F453** Inserted (19.12.2012) by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 48(2), S.I. No. 557 of 2012.

Winding-up of  
the note reserve  
fund and estab-  
lishment of the  
currency reserve.

**62.—(1)** As soon as may be after the passing of this Act and in any event not later than one month after such passing, the note reserve fund shall be wound up and for that purpose the following provisions shall have effect, that is to say:—

(a) there shall be established in the general fund an account to be called the currency reserve;

(b) out of the assets of the note reserve fund there shall be transferred to the legal tender note fund such assets (not exceeding two hundred thousand

pounds in total value at the market prices current at the time of the transfer) as the Commission shall think proper;

- (c) the assets transferred to the legal tender note fund in pursuance of the next preceding paragraph of this sub-section shall be applied in writing down in the books of that fund to such extent as the Commission shall think proper the values in such books of such of the assets of the said fund as the Commission shall think proper;
- (d) the assets of the note reserve fund (other than those assets transferred to the legal tender note fund under the foregoing provisions of this section) shall be transferred to the general fund and the amount thereof shall be placed to the credit of the currency reserve;
- (e) from and after the winding-up of the note reserve fund in pursuance of this section, the transfers required by sub-section (7) of section 61 (as amended by this Act) of the Currency Act to be made from or to the legal tender note fund to or from the note reserve fund shall be made from or to the legal tender note fund to or from the currency reserve in the general fund.

(2) If the winding-up of the note reserve fund in pursuance of the foregoing sub-section of this section takes place on or after the appointed day, every mention in that sub-section of the Commission shall be construed and have effect as a mention of the Board.

(3) Section 50 and sub-section (7) of section 58 of the Currency Act are hereby amended, as from the completion of the winding-up of the note reserve fund, by the substitution of the expression "currency reserve" for the expression "note reserve fund" wherever the latter expression occurs in the said section 50 and the said sub-section (7) respectively.

(4) F454[...].

#### Annotations

#### Amendments:

**F454** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

#### Editorial Notes:

**E167** The figure of two hundred thousand pounds referred to in subs. (1)(b) converts to €253,947.61. See *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1.

Amendment of  
section 61 of the  
Currency Act.

**63.—F455[...]**

#### Annotations

#### Amendments:

**F455** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

Amendment of section 3 of the Currency (Amendment) Act, 1930.

**64.—**F456[...]

#### Annotations

#### Amendments:

**F456** Repealed (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 4 and sch., commenced as per s. 2.

Power of Bank to obtain information as to hire-purchase businesses.

**65.—**(1) It shall be lawful for the Bank to obtain from—

- (a) any person who by way of trade sells goods on the terms commonly called hire-purchase or on any other terms under which the price (with or without an additional sum for interest) is payable by instalments, or
- (b) any person who carries on the business of financing (whether by loan, guarantee, or otherwise) the sale of goods on any of the terms mentioned in the foregoing paragraph of this section,

all such information in relation to the said trade or business (as the case may be) carried on by such person as shall appear to the Board to be necessary or desirable, and it shall be lawful for the Bank, for the purpose of obtaining such information, to serve on any such person a notice in writing requiring him to furnish in writing to the Bank such information (which shall be specified in the notice) either within a specified time not less than fourteen days after the service of the notice or periodically at intervals of not less than three months.

**F457**[(2) (a) It shall be the duty of every person on whom a notice is served by the Bank under subsection (1) of this section to comply with such notice within the time or on the periodic occasions (as the case may be) specified in such notice, and if he fails so to do, he shall be guilty of an offence under this section and shall be liable, on summary conviction, to a fine not exceeding £1,000.

(b) Where a person has been convicted of an offence by virtue of paragraph (a) of this subsection and, after the conviction, the failure to comply continues, the person shall be guilty of contravening this section on every day on which the contravention continues after that conviction and for each such offence he shall be liable on summary conviction to a fine not exceeding £100.]

(3) A notice served by the Bank under this section on any person may be so served by sending it by prepaid post addressed to such person at his place of business or, where he has more than one such place, the place which appears to the Board to be his principal place of business within the State or, where such person is a limited company incorporated in the State, at the registered office of such company

#### Annotations

#### Amendments:

**F457** Substituted (12.07.1989) by *Central Bank Act 1989* (16/1989), s. 8(c), S.I. No. 176 of 1989.

#### Editorial Notes:

**E168** The sum of £1,000 referred to in subs. (2)(a) converts to €1,269.74 and the sum of £100 referred to in subs. (2)(b) converts to €126. 97. See *Euro Changeover (Amounts) Act 2001* (16/2001), s. 1.



Amendment of the Bills of Exchange Act, 1882, in respect of banker's drafts.

**66.—**F458[...]

**Annotations**

**Amendments:**

**F458** Repealed (28.10.1959) by *Cheques Act 1959* (19/1959), s. 6(3) and sch., commenced as per s. 7(2).

Legalisation of bank deposit as a trustee investment.

**67.—**F459[...]

**Annotations**

**Amendments:**

**F459** Repealed (2.07.1958) by *Trustee (Authorised Investments) Act 1959* (8/1958), s. 6 and sch., commenced as per s. 7(3).

Amendment of section 22 of the Bankers (Ireland) Act, 1845.

**68.—**So much of section 22 of the Bankers (Ireland) Act, 1845, (as adapted by or under subsequent enactments) as requires the Revenue Commissioners to publish in the *Iris Oifigiúil* returns made to them under that section shall cease to have effect on the passing of this Act.

F460[ Section 32.

## SCHEDULE 1

## Procedure of the Commission

*General procedure.*

1.—The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Schedule, to be as determined by the members. The members may determine that procedure by means of rules or standing orders or by any other means.

*Quorum.*

2.—If there are 10 or 11 members of the Commission, 6 members constitute a quorum; if there are 12 members of the Commission, 7 members constitute a quorum.

*Who is to preside at meetings of Commission.*

3.—(1) A meeting of the Commission is to be presided over by—

(a) the Governor, or

(b) in the absence of the Governor, or if there is no Governor—

(i) the member appointed under section 22 to act as Governor, or

(ii) if no member has been appointed under that section, a member elected by the members present at the meeting.

(2) If the votes are equal on a motion put at a meeting of the Commission, the person who is presiding at the meeting has a casting as well as a deliberative vote.

*Voting at Commission meetings.*

4.—A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is the decision of the Commission.

*Transaction of business otherwise than at ordinary meetings.*

5.—(1) The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all its members for the time being. A resolution approved in writing by a majority of those members is taken to be a decision of the Commission.

(2) The Commission may, if it thinks fit, transact any of its business at a meeting at which its members (or some of its members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter being considered by the meeting can be heard by the other members. For the purposes of—

(a) the approval of a resolution under subparagraph (1), or

(b) a meeting held in accordance with subparagraph (2),

the members have the same voting rights as they have at an ordinary meeting of the Commission.

(3) Papers may be circulated among the members for the purposes of subparagraph (1) by the electronic transmission of the information in the papers.

*Disclosure of members' pecuniary interests.*

6.—(1) If—

(a) a member of the Commission has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Commission or to the Secretary of the Commission.

(2) In the case of a disclosure under subparagraph (1) to the Secretary of the Commission, the Secretary shall inform the next meeting of the Commission of the disclosure.

(3) A disclosure by a member that he or she—

(a) is a director, or is in the employment, of a specified company or other body,

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body, or to that person, that may arise after the date of the disclosure and that is required to be disclosed under subparagraph (1).

(4) The Secretary of the Commission shall make and keep a record of particulars of any disclosure made under this paragraph and, subject to section 33AK, shall make that record available for inspection at all reasonable hours by any person who asks to see it.

(5) After a member has disclosed the nature of an interest in a matter, he or she may not, unless the other members otherwise determine—

(a) be present during any deliberation of the Commission with respect to the matter, or

(b) take part in any decision of the Commission with respect to the matter.

(6) For the purposes of the making of a determination by the members under subparagraph (5)(b), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates is not entitled—

(a) to be present during any deliberation of the Commission for the purpose of making the determination, or

(b) to take part in the making by the Commission of the determination.

(7) A contravention of this paragraph does not invalidate a decision of the Commission.

(8) This paragraph does not apply to or in relation to an interest of a member in a matter or thing that arises merely because he or she is a contributor to a retirement benefits scheme.]

#### Annotations

#### Amendments:

**F460** Substituted (1.11.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, pt. 1, item 81, S.I. No. 469 of 2010.

#### Editorial Notes:

**E169** S. 4 of this Act, which has not been modified, refers to Acts repealed in the First Schedule. With the substitution referred to in the F-note above the relevant schedule has been removed. See *Interpretation Act 2005* (23/2005), s. 27.

**E170** Previous affecting provision: schedule substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 31, S.I. No. 160 of 2003; substituted as per F-note above.

F461[Section 33C(1) and (2).

## SCHEDULE 2

## Designated enactments and designated statutory instruments

## PART 1

## ENACTMENTS

| Item | Number and year | Short Title                                     | Provisions  |
|------|-----------------|---|---|
| 1    | 9 Edw 7, c.49   | Assurance Companies Act 1909                    | The whole Act   |
| 2    | No. 45 of 1936  | Insurance Act 1936                              | The whole Act   |
| 3    | No. 22 of 1942  | Central Bank Act 1942                           | Section 5C  |
| 4    | No. 7 of 1953   | Insurance Act 1953                              | Section 4   |
| 5    | No. 33 of 1963  | Companies Act 1963                              | Section 213   |
| 6    | No. 18 of 1964  | Insurance Act 1964                              | The whole Act   |
| 7    | No. 24 of 1971  | Central Bank Act 1971                           | The whole Act, other than subsections (1) and (4) of section 7 and sections 44 to 46, 48 to 50 and 55 |
| 8    | No. 30 of 1978  | Insurance (Amendment) Act 1978                  | The whole Act   |
| 9    | No. 24 of 1983  | Postal and Telecommunications Services Act 1983 | Sections 67 and 104   |
| 10   | No. 29 of 1983  | Insurance (No. 2) Act 1983                      | The whole Act   |
| 11   | No. 3 of 1989   | Insurance Act 1989                              | The whole Act   |
| 12   | No. 16 of 1989  | Central Bank Act 1989                           | The whole Act other than sections 22 to 25 and 118 to 126   |
| 13   | No. 17 of 1989  | Building Societies Act 1989                     | The whole Act   |
| 14   | No. 21 of 1989  | Trustee Savings Banks Act 1989                  | The whole Act   |
| 15   | No. 27 of 1990  | Companies (Amendment) Act 1990                  | Sections 3, 3C, 18, 23, 24 and 27   |
| 16   | No. 33 of 1990  | Companies Act 1990                              | Part XIII   |
| 17   | No. 37 of 1990  | Unit Trusts Act 1990                            | The whole Act   |
| 18   | No. 18 of 1992  | Housing (Miscellaneous Provisions) Act 1992     | Section 13  |
| 19   | No. 24 of 1994  | Investment Limited Partnerships Act 1994        | The whole Act   |
| 20   | No. 27 of 1994  | Solicitors (Amendment) Act 1994                 | Section 78  |
| 21   | No. 11 of 1995  | Investment Intermediaries Act 1995              | The whole Act   |
| 22   | No. 24 of 1995  | Consumer Credit Act 1995                        | The whole Act   |

| Item     | Number and year      | Short Title  | Provisions   |
|----------|----------------------|--|--|
| 23       | No. 25 of 1995       | Netting of Financial Contracts Act 1995                                | Sections 2 and 3   |
| 24       | No. 8 of 1997        | Central Bank Act 1997  | The whole Act other than Parts II and III and section 77 |
| 25       | No. 15 of 1997       | Credit Union Act 1997  | The whole Act  |
| 26       | No. 37 of 1998       | Investor Compensation Act 1998   | The whole Act  |
| 27       | No. 32 of 2001       | Dormant Accounts Act 2001  | The whole Act  |
| 28       | No. 47 of 2001       | Asset Covered Securities Act 2001                                      | The whole Act  |
| 29       | No. 28 of 2001       | Company Law Enforcement Act 2001                                       | Section 110A   |
| 30       | No. 2 of 2003        | Unclaimed Life Assurance Policies Act 2003                             | The whole Act  |
| 31       | No. 12 of 2005       | Investment Funds, Companies and Miscellaneous Provisions Act 2005      | The whole Act  |
| 32       | No. 41 of 2006       | Investment Funds, Companies and Miscellaneous Provisions Act 2006      | The whole Act  |
| 33       | No. 19 of 2007       | Consumer Protection Act 2007   | The whole Act  |
| 34       | No. 37 of 2007       | Markets in Financial Instruments and Miscellaneous Provisions Act 2007 | Part 1 and sections 9 to 11, 13 and 17                   |
| 35       | No. 1 of 2009        | Anglo Irish Bank Corporation Act 2009                                  | The whole Act other than section 2                       |
| 36       | No. 34 of 2009       | National Asset Management Agency Act 2009                              | Part 12  |
| 37       | No. 6 of 2010        | Criminal Justice (Money Laundering and Terrorist Financing) Act 2010   | Part 4   |
| F462[38] | F462[No. 23 of 2010] | F462[Central Bank Reform Act 2010]                                     | F462[Parts 3, 4 and 5]                                   |
| F463[39] | F463[No. — of 2011]  | F463[Central Bank and Credit Institutions (Resolution) Act 2011]       | F463[Part 8 and sections 22 and 106]                     |

## PART 2

## STATUTORY INSTRUMENTS

| Item | Number and Year        | Citation   | Provisions           |
|------|------------------------|--|----------------------|
| 1    | S.R.&O. No. 75 of 1940 | Actuary (Qualifications) Regulations 1940              | The whole instrument |
| 2    | S.R.&O. No. 76 of 1940 | Industrial Assurance (Contents of Policies) Order 1940 | The whole instrument |

| Item | Number and Year        | Citation   | Provisions               |
|------|------------------------|--|--------------------------|
| 3    | S.R.&O. No. 78 of 1940 | Insurance (Deposits) Rules 1940  | The whole instrument     |
| 4    | S.R.&O. No. 80 of 1940 | Insurance Regulations 1940   | The whole instrument     |
| 5    | S.R.&O. No. 81 of 1940 | Industrial Assurance (Fees for Determination of Disputes) Regulations 1940               | The whole instrument     |
| 6    | S.I. No. 64 of 1971    | Decimal Currency (Friendly Society and Industrial Assurance Contracts) Regulations 1971  | The whole instrument     |
| 7    | S.I. No. 115 of 1976   | European Communities (Non-Life Insurance) Regulations 1976                               | The whole instrument     |
| 8    | S.I. No. 178 of 1978   | European Communities (Insurance Agents and Brokers) Regulations 1978                     | The whole instrument     |
| 9    | S.I. No. 382 of 1978   | European Communities (Insurance) (Non-life) Regulations 1978                             | The whole instrument     |
| 10   | S.I. No. 65 of 1983    | European Communities (Co-Insurance) Regulations 1983                                     | The whole instrument     |
| 11   | S.I. No. 57 of 1984    | European Communities (Life Assurance) Regulations 1984                                   | The whole instrument     |
| 12   | S.I. No. 27 of 1987    | Building Societies Regulations 1987  | The whole instrument     |
| 13   | S.I. No. 191 of 1990   | Insurance (Bonding of Intermediaries) Regulations 1990                                   | The whole instrument     |
| 14   | S.I. No. 142 of 1991   | European Communities (Non-Life Insurance) (Amendment) (No. 2) Regulations 1991           | The whole instrument     |
| 15   | S.I. No. 197 of 1991   | European Communities (Non-Life Insurance) (Legal Expenses) Regulations 1991              | The whole instrument     |
| 16   | S.I. No. 244 of 1992   | European Communities (Non-Life Insurance) (Amendment) Regulations 1992                   | The whole instrument     |
| 17   | S.I. No. 294 of 1992   | European Communities (Credit Institutions: Accounts) Regulations 1992                    | Regulations 8, 14 and 15 |
| 18   | S.I. No. 395 of 1992   | European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 | The whole instrument     |
| 19   | S.I. No. 359 of 1994   | European Communities (Non-Life Insurance) Framework Regulations 1994                     | The whole instrument     |
| 20   | S.I. No. 360 of 1994   | European Communities (Life Assurance) Framework Regulations 1994                         | The whole instrument     |

| Item | Number and Year      | Citation  | Provisions           |
|------|----------------------|---|----------------------|
| 21   | S.I. No. 27 of 1995  | European Communities (Unfair Terms in Consumer Contracts) Regulations 1995                                    | The whole instrument |
| 22   | S.I. No. 168 of 1995 | European Communities (Deposit Guarantee Schemes) Regulations 1995   | The whole instrument |
| 23   | S.I. No. 202 of 1995 | European Communities (Non-Life Insurance Accounts) Regulations 1995   | The whole instrument |
| 24   | S.I. No. 23 of 1996  | European Communities (Insurance Undertakings Accounts) Regulations 1995                                       | The whole instrument |
| 25   | S.I. No. 25 of 1996  | European Communities (Swiss Confederation Agreement) Regulations 1996   | The whole instrument |
| 26   | S.I. No. 267 of 1996 | Supervision of Credit Institutions Stock Exchange Member Firms and Investment Business Firms Regulations 1996 | The whole instrument |
| 27   | S.I. No. 380 of 1997 | Stock Exchange Act, 1995 (Determination Committees) Rules of Procedure 1997                                   | The whole instrument |
| 28   | S.I. No. 381 of 1997 | Rules entitled Investment Intermediaries Act 1995 (Determination Committee) Rules of Procedure 1997           | The whole instrument |
| 29   | S.I. No. 307 of 2000 | European Communities (Unfair Terms in Consumer Contracts) (Amendment) Regulations 2000                        | The whole instrument |
| 30   | S.I. No. 473 of 2000 | Insurance Act, 1989 (Reinsurance) (Form of Notice) Regulations 2000   | The whole instrument |
| 31   | S.I. No. 15 of 2001  | Life Assurance (Provision of Information) Regulations 2001  | The whole instrument |
| 32   | S.I. No. 221 of 2002 | European Communities (Electronic Money) Regulations 2002  | The whole instrument |
| 33   | S.I. No. 335 of 2002 | European Communities (Cross Border Payments in Euro) Regulations 2002   | The whole instrument |
| 34   | S.I. No. 168 of 2003 | European Communities (Reorganisation and Winding-up of Insurance Undertakings) Regulations 2003               | The whole instrument |
| 35   | S.I. No. 211 of 2003 | European Communities (Undertakings for Collective Investments in Transferable Securities) Regulations 2003    | The whole instrument |

| Item     | Number and Year      | Citation  | Provisions                               |
|----------|----------------------|---|--|
| F464[36] | S.I. No. 48 of 2011  | European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2011 S.I. No. 48 of 2011) | The whole instrument]                    |
| 37       | S.I. No. 727 of 2004 | European Communities (Financial Conglomerates) Regulations 2004   | The whole instrument                     |
| 38       | S.I. No. 853 of 2004 | European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004                         | The whole instrument                     |
| 39       | S.I. No. 13 of 2005  | European Communities (Insurance Mediation) Regulations 2005   | The whole instrument                     |
| 40       | S.I. No. 324 of 2005 | Prospectus (Directive 2003/71/EC) Regulations 2005  | The whole instrument                     |
| 41       | S.I. No. 342 of 2005 | Market Abuse (Directive 2003/6/EC) Regulations 2005   | The whole instrument                     |
| 42       | S.I. No. 380 of 2006 | European Communities (Reinsurance) Regulations 2006   | The whole instrument                     |
| 43       | S.I. No. 660 of 2006 | European Communities (Capital Adequacy of Investment Firms) Regulations 2006                                      | The whole instrument                     |
| 44       | S.I. No. 661 of 2006 | European Communities (Capital Adequacy of Credit Institutions) Regulations 2006                                   | The whole instrument                     |
| 45       | S.I. No. 60 of 2007  | European Communities (Markets in Financial Instruments) Regulations 2007  | The whole instrument                     |
| 46       | S.I. No. 366 of 2007 | European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007                | The whole instrument                     |
| 47       | S.I. No. 383 of 2009 | European Communities (Payment Services) Regulations 2009  | The whole instrument (other than Part 3) |
| 48       | S.I. No. 475 of 2009 | European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009                            | The whole instrument                     |
| 49       | S.I. No. 183 of 2010 | European Communities (Cross Border Payments in the Community) Regulations 2010                                    | The whole instrument                     |



| Item      | Number and Year            | Citation  | Provisions                 |
|-----------|----------------------------|---|----------------------------|
| 50        | S.I. No. 281 of 2010       | European Communities (Consumer Credit Agreements) Regulations 2010                    | The whole instrument       |
| F465[51.] | F465[S.I. No. 183 of 2011] | F465[European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011)] | F465[The whole instrument] |

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**Annotations****Amendments:**

**F461** Substituted (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(1) and sch. 1, part. 1, item 82, S.I. No. 469 of 2010.

**F462** Substituted (19.12.2012) by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 68(2), S.I. No. 557 of 2012.

**F463** Substituted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110(1) and sch. 2, pt. 1, item 4, S.I. No. 548 of 2011.

**F464** Substituted (7.02.2013) by *Irish Bank Resolution Corporation Act 2013* (2/2013), s. 23, commenced on enactment.

**F465** Inserted (30.04.2012) by *European Communities (Electronic Money) Regulations 2011* (S.I. No. 183 of 2011), reg. 79 and sch., pt. 1, item 5.

**F466** Part 1, item 39 substituted and item 40 inserted by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 37, not commenced as of 22.02.2013.

**Modifications (not altering text):**

**C26** Prospective amending provision: Part 1, item 39 substituted and item 40 inserted by *Credit Union and Co-operation with Overseas Regulators Act 2012* (40/2012), s. 37, not commenced as of 22.02.2013.

|          |                |   |                                |
|----------|----------------|---|--------------------------------|
| F466[39] | No. 27 of 2011 | Central Bank and Credit Institutions (Resolution) Act 2011      | Part 8 and sections 22 and 106 |
| 40       | No. — of 2012  | Credit Union and Co-operation with Overseas Regulators Act 2012 | The whole Act]                 |

**Editorial Notes:**

**E171** Previous affecting provision: item 38 in Part 1 substituted (28.10.2011) by *Central Bank and Credit Institutions (Resolution) Act 2011* (27/2011), s. 110(1) and sch. 2, pt. 1, item 4, S.I. No. 548 of 2011.

**E172** Previous affecting provision: item 36 in table, Part 2, *European Communities (Reorganisation and Winding-Up of Credit Institutions) Regulations 2004* (S.I. No. 198 of 2004), revoked (4.02.2011) by *European Communities (Reorganisation and Winding-up of Credit Institutions) Regulations 2011* (S.I. No. 48 of 2011), reg. 41.

- E173** Previous affecting provision: schedule amended (15.07.2010) by *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (6/2010), s. 114(4), S.I. No. 342 of 2010; substituted as per F-note above.
- E174** Previous affecting provision: schedule amended (19.05.2010) by *European Communities (Cross Border Payments) Regulations 2010* (S.I. No. 183 of 2010), reg. 22, commenced as per reg. 1(2); substituted as per F-note above.
- E175** Previous affecting provision: schedule amended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 232 and sch. 3, pt. 2, item 11, S.I. No. 545 of 2009; substituted as per F-note above.
- E176** Previous affecting provision: schedule amended (19.12.2009) by *European Communities (Credit Institutions) (Consolidated Supervision) Regulations 2009* (S.I. No. 475 of 2009), reg. 28, commenced as per reg. 2; substituted as per F-note above.
- E177** Previous affecting provision: schedule amended (1.11.2009) by *European Communities (Payment Services) Regulations 2009* (S.I. No. 383 of 2009), reg. 118(1) and sch. 2, pt. 1, commenced as per reg. 1(2); substituted as per F-note above.
- E178** Previous affecting provision: schedule amended (18.06.2009) by *Financial Services (Deposit Guarantee Scheme) Act 2009* (13/2009), s. 11 and sch., item 2, commenced on enactment; substituted as per F-note above.
- E179** Previous affecting provision: schedule amended (21.01.2009) by *Anglo Irish Bank Corporation Act 2009* (1/2009), s. 38(3), commenced on enactment; substituted as per F-note above.
- E180** Previous affecting provision: schedule amended by (21.11.2007) *European Communities (Markets in Financial Instruments) (Amendment) Regulations (No. 2) 2007* (S.I. No. 773 of 2007), reg. 35, commenced as per reg. 1(3); substituted as per F-note above.
- E181** Previous affecting provision: schedule amended (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 7, S.I. No. 730 of 2007; substituted as per F-note above.
- E182** Previous affecting provision: schedule amended (1.11.2007) by *European Communities (Markets in Financial Instruments) Regulations 2007* (S.I. No. 60 of 2007), reg. 193, commenced as per reg. 1(2); reg. 193 deleted on same date (1.11.2007) by *European Communities (Markets in Financial Instruments) (Amendment) Regulations 2007* (S.I. No. 663 of 2007), reg. 52, commenced as per reg. 1(3).
- E183** Previous affecting provision: schedule amended (1.06.2007) by *European Communities (Insurance and Reinsurance Groups Supplementary Supervision) Regulations 2007* (S.I. No. 366 of 2007), reg. 20(2)(b), commenced as per reg. 1(2); substituted as per F-note above.
- E184** Previous affecting provision: schedule amended (1.05.2007) by *Consumer Protection Act 2007* (19/2007), s. 94(6), S.I. No. 178 of 2007; substituted as per F-note above.
- E185** Previous affecting provision: schedule amended (29.01.2007) by *Investment Funds, Companies and Miscellaneous Provisions Act 2006* (41/2006), s. 34(3), S.I. No. 23 of 2007; substituted as per F-note above.
- E186** Previous affecting provision: amended (15.07.2006) by *European Communities (Reinsurance) Regulations 2006* (S.I. No. 380 of 2006), reg. 84(2), commenced as per reg. 1(2); substituted as per F-note above.
- E187** Previous affecting provision: amended (30.06.2005) by *Investment Funds, Companies and Miscellaneous Provisions Act 2005* (12/2005), s. 87(2), S.I. No. 323 of 2005; substituted as per F-note above.
- E188** Previous affecting provision: amended by (1.09.2004) *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 20, S.I. No. 455 of 2004; substituted as per F-note above.

**E189** Previous affecting provision: amended (18.08.2003) by *Central Bank Act 1942 (Schedule 2)(Amendment)Order 2003* (S.I. No. 371 of 2003), art. 2; substituted as per F-note above.

**E190** Previous affecting provision: substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 31, S.I. No. 160 of 2003; substituted as per F-note above.

F467[SCHEDULE 3 Section 33E(4).

#### PROVISIONS APPLICABLE TO REGULATORY AUTHORITY

F468[...]]

#### Annotations

##### Amendments:

**F467** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 31, S.I. No. 160 of 2003.

**F468** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 4, S.I. No. 469 of 2010.

##### Editorial Notes:

**E191** Previous affecting provision: schedule amended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 232 and sch. 3, pt. 2, item 12, S.I. No. 545 of 2009; repealed as per F-note above.

**E192** Previous affecting provision: schedule amended (1.11.2007) by *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* (37/2007), s. 13(f), S.I. No. 730 of 2007; repealed as per F-note above.

F469[SCHEDULE 4]

MAXIMUM AMOUNTS OF CONSOLIDATED BANK NOTES WHICH MAY BE OUTSTANDING  
WITH THE ASSOCIATED BANKS RESPECTIVELY.

| Ref. No. | Name of Associated Bank                    | MAXIMUM AMOUNT OF CONSOLIDATED BANK NOTES   |   |   |   |
|----------|--|---|---|---|---|
|          |  | In the period from the day after the date of the passing of this Act to the 31st December, 1944 | In the triennial period ending on 31st December, 1947 | In the triennial period ending on 31st December, 1950 | In the triennial period ending on 31st December, 1953 |
| (1)      | (2)  | (3)   | (4)   | (5)   | (6)   |
|          |  | £   | £   | £   | £   |
| 1        | The Bank of Ireland.                       | 1,286,000   | 965,000   | 643,000   | 322,000   |
| 2        | The Hibernian Bank, Limited.               | 550,000   | 413,000   | 275,000   | 138,000   |
| 3        | The Munster & Leinster Bank, Limited.      | 900,000   | 675,000   | 450,000   | 225,000   |
| 4        | F470[The National Bank of Ireland Limited] | 1,141,000   | 856,000   | 571,000   | 286,000   |
| 5        | The Northern Bank, Limited.                | 160,000   | 120,000   | 80,000  | 40,000  |
| 6        | The Provincial Bank of Ireland, Limited.   | 555,000   | 417,000   | 278,000   | 139,000   |
| 7        | The Royal Bank of Ireland, Limited.        | 273,000   | 205,000   | 137,000   | 69,000  |
| 8        | The Ulster Bank, Limited.                  | 319,000   | 240,000   | 160,000   | 80,000  |

#### Annotations

#### Amendments:

**F469** Substituted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 32, S.I. No. 160 of 2003.

**F470** Substituted (26.03.1966) by *National Bank Transfer Act 1966* (8/1966), s. 8(1), (2)(c), S.I. No. 63 of 1966.

#### Modifications (not altering text):

**C27** Schedule affected (28.01.1972) by *Central Bank Act (Approval of Scheme of The Royal Bank of Ireland Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 24 of 1972), reg 4.

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act 1942

...

references to The Royal Bank of Ireland Limited shall be construed as references to Allied Irish Banks Limited.

**C28** Schedule affected (28.01.1972) by *Central Bank Act (Approval of Scheme of Provincial Bank of Ireland Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 23 of 1972), reg 4.

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act 1942

...

references to Provincial Bank of Ireland Limited shall be construed as references to Allied Irish Banks Limited.

**C29** Schedule affected (28.01.1972) by *Central Bank Act (Approval of Scheme of The Munster and Leinster Bank Limited and Allied Irish Banks Limited) Order 1972* (S.I. No. 22 of 1972), reg 4.

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act 1942

...

references to The Munster and Leinster Bank Limited shall be construed as references to Allied Irish Banks Limited.

**C30** Schedule affected (28.01.1972) by *Central Bank Act (Approval of Scheme of The Hibernian Bank Limited and The Governor and Company of the Bank of Ireland) Order 1972* (S.I. No. 21 of 1972), reg 4:

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act 1942

...

references to The Hibernian Bank Limited shall be construed as references to The Governor and Company of the Bank of Ireland.

...

**C31** Schedule affected (28.01.1972) by *Central Bank Act (Approval of Scheme of The National Bank of Ireland Limited and The Governor and Company of the Bank of Ireland) Order 1972* (S.I. No. 20 of 1972), reg 4.

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act 1942

...

references to The National Bank of Ireland Limited shall be construed as references to The Governor and Company of the Bank of Ireland.

**C32** Schedule affected (1.07.1986) by *Central Bank Act (Approval of Scheme of Northern Bank Limited and Northern Bank (Ireland) Limited) Order 1986* (S.I. No. 99 of 1986), reg. 4(c).

4. In the following statutory provisions, namely— ...

(c) the second column of the Third Schedule to the Central Bank Act, 1942 (No. 22 of 1942);

...

references to the Northern Bank Limited shall be construed as references to Northern Bank (Ireland) Limited.

F471[SCHEDULE 5      Section 57D(5).

PROVISIONS APPLICABLE TO MEMBERS OF THE APPEALS TRIBUNAL

|  |   |
|--|---|
| Acting Chairperson.                                      | <p>1.—(1) If the Chairperson is absent from duty, the Deputy Chairperson is to be acting Chairperson.</p> <p>(2) The acting Chairperson has the functions and powers of the Chairperson and anything done by an Acting Chairperson in the performance or exercise of those powers and functions has effect as if the Chairperson had done the thing.</p> <p>(3) In this paragraph, absence from duty includes a vacancy in the relevant office.</p>   |
| Terms of appointment of members.                         | <p>2.—(1) Subject to Part VIIA of this Act and to this Schedule, a member holds office for 5 years.</p> <p>(2) A member is eligible for re-appointment, but may not hold office for more than three consecutive terms of 5 years.</p>   |
| Members to take oath of office.                          | <p>3.—A member is required to take an oath before performing the functions of the member's office. The regulations may make provision for the oaths that are to be taken by members.</p>  |
| Protection and immunities of members.                    | <p>4.—A member has as such the same protection and immunities as a Judge of the High Court.</p>   |
| Remuneration and other conditions of service of members. | <p>5.—A member is entitled to such remuneration and other conditions of service as the President may from time to time determine on the advice of the Government. This paragraph is subject to paragraph 10.</p>  |
| Vacancy in office of Chairperson and Deputy Chairperson. | <p>6.—(1) A person ceases to be Chairperson or Deputy Chairperson if the person—</p> <ul style="list-style-type: none"> <li>(a) dies, or</li> <li>(b) completes a term of office and is not re-appointed, or</li> <li>(c) resigns the office by notice in writing given to the President, or</li> <li>(d) ceases to be eligible to practice as a barrister or solicitor, or</li> <li>(e) is, with the person's consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann, or</li> <li>(f) is, with the person's consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament, or</li> <li>(g) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or</li> <li>(h) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or</li> <li>(i) becomes physically or mentally incapable of performing the duties of Chairperson or Deputy Chairperson, or</li> <li>(j) is removed from office by a resolution passed in accordance with subparagraph (2).</li> </ul> <p>(2) The Chairperson and Deputy Chairperson can be removed from office only by the President on a resolution passed by both Houses of the Oireachtas in the same session seeking removal on the ground of proven misbehaviour or incapacity.</p> |

Vacancy in office of other members.

- 7.—(1) A person who is a lay member ceases to be such a member if the person—
- (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by notice in writing addressed to the President, or
  - (d) is, with the person's consent, nominated as a candidate for election as a member of either House of the Oireachtas or is nominated as a member of Seanad Éireann, or
  - (e) is, with the person's consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament, or
  - (f) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or
  - (g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or
  - (h) becomes physically or mentally incapable of performing the duties of a member, or
  - (i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or
  - (j) is removed from office under subparagraph (2).
- (2) The President may, on the advice of the Government, remove a lay member from office for proven incompetence or misbehaviour.

Former member whose term expires may complete unfinished matters.

- 8.—(1) Even though a person's term of office as a member has come to an end, the person may finish or otherwise continue to deal with any matters relating to proceedings before the Appeals Tribunal that have been heard or partly heard (or were otherwise the subject of deliberations) by the person before the end of that term.
- (2) While finishing or otherwise dealing with matters referred to in subparagraph (1), the person is taken to have and may exercise all the rights and functions of a member that the person had immediately before the end of his or her term of office.

Superannuation and leave — preservation of certain accrued rights.

- 9.—(1) In this paragraph—
- 'eligible member' means a member who, immediately before being appointed to the Appeals Tribunal, was a civil servant or an officer or employee of a public authority declared by an enactment or other law to be an authority to which this paragraph applies;
- 'superannuation scheme' means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.
- (2) An eligible member—
- (a) may continue to belong to any superannuation scheme to which the member was a contributor immediately before becoming a member, and
  - (b) is entitled to receive any payment, pension or gratuity accrued or accruing under the scheme,
- as if the member had continued to belong to the scheme while serving as a member.

(3) Service by the eligible member as a member of the Appeals Tribunal is taken to be service as an officer in the member's previous employment for the purposes of any law under which the member continues to belong to the scheme or by which an entitlement under the scheme is conferred. The eligible member is to be regarded as an officer or employee for the purposes of the scheme, and the State is to be regarded as the employer for those purposes.

(4) This section ceases to apply to the eligible member if the member becomes a member of another superannuation scheme, but this subparagraph does not prevent the eligible member from receiving a resignation benefit from the first superannuation scheme.

(5) An eligible member retains any rights to annual and other leave accrued or accruing in the member's previous employment.

(6) An eligible member is not entitled to claim, under both this Act and any other Act, dual benefits of the same kind for the same period of service.

Chairperson may  
delegate certain  
functions and  
powers.

10.—(1) The Chairperson may—

(a) delegate to the Deputy Chairperson any of the functions or powers of the Chairperson, or

(b) delegate to the Registrar or any other member of staff of the Appeals Tribunal any of the functions or powers of the Chairperson prescribed by the rules,

other than this power of delegation.

(2) A delegation—

(a) may be general or limited,

(b) must be in, or be evidenced by, writing signed by the Chairperson, and

(c) may be revoked, wholly or partly, by the Chairperson.

(3) A delegated function or power may be performed or exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the exercise of a delegated function, exercise any power that is incidental to the delegated function.

(5) A delegated function or power that purports to have been performed or exercised by a delegate is, until the contrary is proved, taken to have been duly performed or exercised by the delegate.

(6) A delegated function or power that is duly exercised by a delegate is taken to have been performed or exercised by the Chairperson.

(7) If a function is delegated to the holder of a particular office—

(a) the delegation does not cease to have effect merely because the person who was the holder of the particular office when the function was delegated ceases to be the holder of that office, and

(b) the function or power is to be performed or exercised by the person for the time being occupying or acting in the office concerned.

(8) The Chairperson may, despite the delegation, perform a function that has been delegated under this paragraph.



Disclosure of members' pecuniary and other interests.

11.—(1) If a person is, or is to be, a member of the Appeals Tribunal as constituted for the purposes of proceedings and the person has or acquires an interest (pecuniary or otherwise) that could conflict with the proper performance of the person's functions in relation to the proceedings, the person—

(a) shall disclose the nature of the interest to the parties to the proceedings, and

(b) may not, without the consent of all of the parties, take part in the proceedings, or exercise any powers in relation to the making by that Tribunal of the decision to which the proceedings relate.

(2) If the Chairperson becomes aware that a person who is, or is to be, a member of the Appeals Tribunal as constituted for the purposes of proceedings and that the person has in relation to the proceedings an interest referred to in subparagraph (1), the Chairperson shall—

(a) if the Chairperson considers that the person should not take part, or should not continue to take part, in the proceedings — give a direction to the person accordingly, or

(b) in any other case — arrange for the person's interest to be disclosed to the parties to the proceedings where the interest has not already been disclosed under subparagraph (1).

(3) For the purposes of this paragraph, the expertise or experience of a member in relation to a class of matters in relation to which the Appeals Tribunal has jurisdiction does not constitute an interest that could conflict with the proper performance of the functions of the member.

(4) A failure to comply with this paragraph does not affect the validity of any decision made by the Appeals Tribunal.

Application of Schedule to acting members.

12.—(1) All of the provisions of this Schedule except paragraph 2 apply to acting members.

(2) In this paragraph, 'acting member' means a person appointed F472[under section 57F] to act as a member.]

#### Annotations

#### Amendments:

**F471** Inserted (1.05.2003) by *Central Bank and Financial Services Authority of Ireland Act 2003* (12/2003), s. 33, S.I. No. 160 of 2003, subject to transitional provisions in s. 36 and sch. 3.

**F472** Substituted (1.08.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 21, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

F473[SCHEDULE 6 Section 57BC.

#### FINANCIAL SERVICES OMBUDSMAN COUNCIL

Secretary to the Council.

1.—The Chairperson shall, with the agreement of the Financial Services Ombudsman, designate a member of the Bureau staff to be Secretary to the Council.

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|---|--|
| Provision of services to the Council.                       | 2.—Whenever the Chairperson requests, the Financial Services Ombudsman shall, so far as it is possible to do so, arrange for the Council to be provided with such administrative services (including technical and legal advice) as the Council requires to enable it to perform its functions.  |
| Members of Council entitled to certain fees and allowances. | 3.—Members of the Council are entitled to be paid such fees and travelling and subsistence allowances as the Minister approves. Those fees and allowances are payable out of the funds of the Bureau.  |
| Termination of membership of Council.                       | <p>4.—(1) A person ceases to be a member if the person—</p> <ul style="list-style-type: none"> <li>(a) dies, or</li> <li>(b) completes a term of office and is not reappointed, or</li> <li>(c) resigns the office by notice in writing addressed to the Minister, or</li> <li>(d) has, without the permission of the other members, been absent from meetings of the Council for a consecutive period of 6 months, or</li> <li>(e) is, with the person's consent, nominated as a candidate for election as a member of either House of the Oireachtas, or</li> <li>(f) is, with the person's consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament, or</li> <li>(g) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or</li> <li>(h) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or</li> <li>(i) becomes physically or mentally incapable of performing the duties of a member, or</li> <li>(j) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or</li> <li>(k) is removed from office under subparagraph (2).</li> </ul> <p>(2) The Minister may remove an appointed member from office—</p> <ul style="list-style-type: none"> <li>(a) for proven misconduct or incompetence, or</li> <li>(b) in order to enable the Council to function effectively.</li> </ul> |
| Filling vacancy in office of member.                        | <p>5.—(1) If the office of a member becomes vacant, the Minister is required to arrange for a suitably qualified person to be appointed to fill the vacancy in accordance with this Act within 60 days after the date on which the vacancy occurred.</p> <p>(2) Subparagraph (1) does not apply if the term of office of the member concerned was due to expire within 60 days after the vacancy occurred.</p>   |
| Procedure for convening and holding meetings of Council.    | 6.—The procedure for convening meetings of the Council and for the conduct of business at those meetings is, subject to this Schedule, to be as determined by the Council. The Council may determine that procedure by means of rules or standing orders or by any other means.  |

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| Quorums at meetings of Council.                              | 7.—The quorum for a meeting of the Council is a majority of the members of the Council.   |
| Who is to preside at meetings of Council.                    | 8.—A meeting of the Council is to be presided over by—<br>(a) the Chairperson, or<br>(b) in the absence of the Chairperson, a member elected by the members of the Council present at the meeting.  |
| Voting at Council meetings.                                  | 9.—(1) A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is the decision of the Council.<br><br>(2) If the votes are equal on a motion put at a meeting of the Council, the person who is presiding at the meeting has a casting as well as a deliberative vote.  |
| Transaction of business otherwise than at ordinary meetings. | 10.—(1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all its existing members. A resolution approved in writing by a majority of those members is taken to be a decision of the Council.<br><br>(2) The Council may, if it thinks fit, transact any of its business at a meeting at which its members (or some of its members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter being considered by the meeting can be heard by the other members. For the purposes of—<br><br>(a) the approval of a resolution under subparagraph (1), or<br><br>(b) a meeting held in accordance with subparagraph (2),<br><br>the members of the Council have the same voting rights as they have at an ordinary meeting of the Council.<br><br>(3) Papers may be circulated among Council members for the purposes of subparagraph (1) by the electronic transmission of the information in the papers concerned.] |

**Annotations****Amendments:**

**F473** Inserted (1.10.2010) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21.2004), s. 22, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F474**[SCHEDULE 7      Section 57BJ, 57BL, 57BN.

**FINANCIAL SERVICES OMBUDSMAN, DEPUTY FINANCIAL SERVICES OMBUDSMEN AND OTHER BUREAU STAFF MEMBERS**

|   |   |
|---|---|
| Vacation of office of Financial Services Ombudsman and Deputy Financial Services Ombudsman. | 1.—(1) A person ceases to hold office as the Financial Services Ombudsman or as a Deputy Financial Services Ombudsman if the person—<br>(a) dies, or<br>(b) completes a term of office and is not reappointed, or<br>(c) resigns the office by notice in writing addressed to the Council, or |
|---|---|

- (d) is, with the person's consent, nominated as a candidate for election as a member of either House of the Oireachtas, or
- (e) is, with the person's consent, nominated as a candidate for election as a member of the European Parliament or to fill a vacancy in the membership of that Parliament, or
- (f) is, with the person's consent, nominated as a candidate for election as a member of a local authority, or
- (g) is adjudged bankrupt (either in the State or elsewhere) or enters into a composition with the person's creditors, or
- (h) becomes physically or mentally incapable of performing the duties of Financial Services Ombudsman or Deputy Financial Services Ombudsman, or
- (i) is convicted of an offence (either in the State or elsewhere) and sentenced to serve a term of imprisonment for the offence, or
- (j) is removed from office under subparagraph (2).

(2) The Council may remove the Financial Services Ombudsman or a Deputy Financial Services Ombudsman from office—

- (a) for proven misconduct or incompetence, or
- (b) if the removal appears to the Council to be necessary for the effective performance of the functions of the office concerned.

Remuneration and conditions of service of Financial Services Ombudsman and Deputy Financial Services Ombudsman.

2.—(1) The Financial Services Ombudsman and each Deputy Financial Services Ombudsman is entitled to be paid such remuneration and allowances (including travel and subsistence allowances) as the Council decides.

(2) A decision of the Council under this paragraph does not take effect until approved by the Minister.

Financial Services Ombudsman and Deputy Financial Services Ombudsman not to engage in paid employment without approval.

3.—Neither the Financial Services Ombudsman nor a Deputy Financial Services Ombudsman may engage in paid employment outside the duties of the office unless the Council approves the employment.

Superannuation schemes for the benefit of Financial Services Ombudsman and Deputy Financial Services Ombudsmen.

4.—(1) In this paragraph—

'superannuation scheme' means a superannuation scheme prepared under subparagraph (2) or (4), and if the scheme is amended in accordance with this paragraph, means the scheme as amended;

'beneficiary' means the Financial Services Ombudsman or a Deputy Financial Services Ombudsman or a person who formerly held either of those offices.

(2) The Council shall prepare a scheme for the provision of superannuation benefits to or in respect of the Financial Services Ombudsman and each Deputy Financial Services Ombudsman and any person who formerly held any of those offices. More

than one scheme may be prepared under this subparagraph. However, a scheme prepared under this subparagraph does not take effect until the Minister has approved it.

(3) The Council shall ensure that a superannuation scheme prescribes the conditions under which a beneficiary and the beneficiary's dependants will be eligible to receive superannuation benefits under the scheme. Different conditions may be prescribed according to the differing circumstances that apply to a particular beneficiary or the dependants of the beneficiary.

(4) The Council may from time to time prepare an amendment to a superannuation scheme, or a new superannuation scheme to be substituted for an existing scheme. However, an amendment to a superannuation scheme or a substituted superannuation scheme prepared under this subparagraph does not take effect until the Minister has approved it.

(5) The Council is responsible for ensuring that a superannuation scheme is approved by the Minister under this paragraph.

(6) Except with the written consent of the Minister, the Council may not provide superannuation benefits to or in respect of a beneficiary or make arrangements for the provision of such benefits otherwise than in accordance with a superannuation scheme approved by the Minister in accordance with this paragraph.

(7) The Council is responsible for conciliating and settling any dispute that arises in relation to a claim made by a beneficiary or a dependant of a beneficiary for or in respect of the payment of a superannuation benefit under a superannuation scheme approved by the Minister.

Superannuation schemes for the benefit of staff of the Bureau.

5.—(1) In this paragraph—

‘superannuation benefit’ means a superannuation benefit payable to a beneficiary or, if the beneficiary has died, to the spouse <sup>F475</sup>[or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010] or a child of the beneficiary, and includes a pension, a retirement allowance and a gratuity;

‘superannuation scheme’ means a superannuation scheme prepared under subparagraph (2) or (4), and if the scheme is amended in accordance with this paragraph, means the scheme as amended;

‘beneficiary’ means a member or former member of the Bureau staff.

(2) The Council shall prepare a scheme for the provision of superannuation benefits to or in respect of members and former members of the Bureau staff. More than one scheme may be prepared under this subparagraph. However, a scheme prepared under this subparagraph does not take effect until the Minister has approved it.

(3) The Council shall ensure that a superannuation scheme prescribes the ages at which a beneficiary must retire and the conditions under which a beneficiary and the beneficiary's dependants will be eligible to receive superannuation benefits under the scheme. Different retirement ages and eligibility conditions may be prescribed according to the differing circumstances that apply to a particular beneficiary or the dependants of the beneficiary.

(4) The Council may from time to time prepare an amendment to a superannuation scheme, or a new superannuation scheme to be substituted for an existing scheme. However, an amendment to a superannuation scheme, or a substituted superannuation scheme, prepared under this subparagraph does not take effect until the Minister has approved it.

(5) The Council is responsible for ensuring that a superannuation scheme is approved by the Minister in accordance with this paragraph.

(6) Except with the written consent of the Minister, the Council may not provide superannuation benefits to or in respect of a beneficiary or make arrangements for the provision of such benefits otherwise than in accordance with a superannuation scheme approved by the Minister in accordance with this paragraph.

(7) The Council is responsible for conciliating and settling any dispute that arises in relation to a claim made by a beneficiary or a dependant of a beneficiary for or in respect of the payment of a superannuation benefit under a superannuation scheme approved by the Minister.

Council to arrange for superannuation schemes and amendments to be laid before the Houses of the Oireachtas.

6.—(1) As soon as practicable after the Minister has approved a superannuation scheme or an amendment to such a scheme in accordance with paragraph 4 or 5, the Council shall arrange for a copy of the document embodying the scheme or amendment to be laid before each House of the Oireachtas.

(2) Within 21 sitting days after a superannuation scheme or an amendment to such a scheme is laid before a House of the Oireachtas in accordance with subparagraph (1), the House may pass a resolution annulling the scheme or amendment. However, the annulment of such a scheme or amendment does not affect the validity of anything previously done under the scheme or the scheme as amended.

(3) If an amendment to a superannuation scheme is annulled under subparagraph (2), the scheme continues to have effect as if the amendment had never been made.]

#### Annotations

#### Amendments:

**F474** Inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 22, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F475** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 99(2) and sch., pt. 2, item 11, S.I. No. 648 of 2010.

F476[SCHEDULE 8

Section 57DD.

#### PROVISIONS APPLYING TO BOTH CONSULTATIVE PANELS]

F477[...]

#### Annotations

#### Amendments:

**F476** Inserted (1.10.2004) by *Central Bank and Financial Services Authority of Ireland Act 2004* (21/2004), s. 23, S.I. No. 455 of 2004, subject to transitional provisions in s. 35 and sch. 5.

**F477** Repealed (1.10.2010) by *Central Bank Reform Act 2010* (23/2010), s. 14(3) and sch. 1, pt. 2, item 5, S.I. No. 469 of 2010.