



**AN BILLE ARACHAIS (LEASU), 1978
INSURANCE (AMENDMENT) BILL, 1978**

EXPLANATORY MEMORANDUM

General

The purpose of this Bill is to amend the provisions of the Insurance Acts 1936-1971, to allow banks licensed under the Central Bank Act, 1971, and in a limited way foreign banks, to engage in certain types of bonding and guarantee business to meet the needs of the Irish Construction Industry primarily, (foreign and home contracts) including development bonds, and of Irish Manufacturing Industry particularly in relation to export contracts or contracts for the provision of services outside the State.

Licensed banks are also being allowed to guarantee, for sums certain or ascertainable, foreign banks, e.g. the European Investment Bank and other international financial institutions formed wholly or mainly by Governments, in respect of loan finance which these foreign institutions may make available to Irish clients subject to a requirement by them of a guarantee by an Irish bank. The licensed banks are being enabled to carry on certain other business ancillary to banking.

The Bill also makes provision for the issue of bonds and guarantees by foreign banks to the licensed banks where these latter provide finance to Irish clients but require such foreign bank guarantee in so doing.

In addition, the Bill provides for an amendment to the Insurance Act, 1953, so as to increase the maximum amount of the Minister's liability under the Export Credit Scheme.

Main changes

The Insurance Act, 1936 confined the carrying on of suretyship and guarantee business to insurance companies licensed under that Act. Thus the banks were precluded from such business, even where very often it arose out of or ancillary to normal banking transactions and the provision of loan capital. In addition the construction industry in particular found that in contracts abroad the client often insisted on the guarantee for performance bonds etc., being given by a bank rather than an insurer. In consequence the Bill, without altering the understanding or legal interpretation of the 1936 Act hitherto used of what is surety or guarantee business, proposes to amend the Insurance Acts, 1936-71, so that the licensed banks as well as insurers may do this business and so as to allow foreign banks to issue guarantees to Irish banks in limited spheres.

Section 1

This Section allows the bank to give and the client to receive the surety or guarantee referred to under Section 2.

Section 2

This section lists the types of bonding business in which the licensed banks may operate.

Subsection (1) (a)

- (A) a bond or guarantee in relation to the export of any good or service
- (B) in respect of construction contracts, foreign or home.
- (C) in respect of bonds or guarantees by an Irish licensed bank to a foreign institution (European Investment Bank) where the latter is providing loan facilities to a client in Ireland.
- (D), (E) (F) certain internal operations natural to banking.

Subsection (1) (b)

Dealing with a guarantee by a foreign bank to an Irish licensed bank:

to enable a foreign bank to guarantee a licensed bank where the latter is providing finance whether for construction or manufacture to a client in Ireland and the licensed bank requires such a guarantee from the foreign bank. This may arise where, for example, the subsidiary in Ireland of a foreign company is getting loan facilities from an Irish bank.

Section 3

This Section raises the maximum aggregate amount of the Minister's liability under the Export Credit Scheme as provided in the Insurance Act, 1953, to take account of the substantial increase in the value and volume of exports.

*An Roinn Tionscail, Tráchtála agus Fuinnimh,
Samhain, 1978*