



AN BILLE ÁRACHAIS (FORÁLACHA ILGHNÉITHEACHA), 1985
INSURANCE (MISCELLANEOUS PROVISIONS) BILL, 1985

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

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Section

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ACTS REFERRED TO

Companies Acts, 1963 to 1983

Insurance Act, 1964

Insurance (No. 2) Act, 1983

Insurance Acts, 1909 to 1983

1964, No. 18

1983, No. 29



AN BILLE ÁRACHAIS (FORÁLACHA ILGHNÉITHEACHA), 1985
INSURANCE (MISCELLANEOUS PROVISIONS) BILL, 1985

BILL

entitled

5 AN ACT TO AUTHORISE THE MINISTER FOR INDUSTRY,
TRADE, COMMERCE AND TOURISM TO TAKE UP
SHARES OF SEALÚCHAIS ÁRACHAIS TEORANTA, TO
PROVIDE FOR THE GUARANTEEING BY THE MINIS-
10 TER FOR INDUSTRY, TRADE, COMMERCE AND TOUR-
ISM OF CERTAIN PAYMENTS BY THE INSURANCE
CORPORATION OF IRELAND, PUBLIC LIMITED COM-
PANY, TO AMEND THE INSURANCE ACTS, 1909 TO 1983,
AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

15 1.—In this Act—

Definitions.

“the Company” means Sealúchais Árachais Teoranta (formerly Gebhard Limited);

“the Minister” means the Minister for Industry, Trade, Commerce and Tourism.

20 2.—(1) The Minister may, after consultation with the Minister for Finance, from time to time take up by subscription or purchase from the holder all the shares of the Company.

Acquisition of shares of Company by Minister.

25 (2) All moneys from time to time required by the Minister to meet payments required to be made by him in respect of any shares taken up or otherwise acquired by him shall be advanced by the Minister for Finance out of the Central Fund or the growing produce thereof.

(3) This section and *sections 3 and 11* of this Act shall be deemed to have come into operation on the 15th day of March, 1985.

30 3.—(1) The Minister may hold for so long as he thinks fit any shares of the Company for the time being vested in him and, after consultation with the Minister for Finance, may, as and when he thinks fit, sell or otherwise dispose of all or any of such shares.

Holding and sale by Minister of shares of Company.

(2) The net proceeds of a sale by the Minister of shares of the Company shall be paid into or disposed of for the benefit of the Exchequer.

Exercise by
Minister of right or
power exercisable
by holder of shares.

4.—The Minister may exercise in respect of the shares of the Company vested in him all the rights and powers of a holder of such shares and, where a right or power is exercisable by attorney, exercise it by his attorney. 5

Payment of
dividends, etc.,
into Exchequer.

5.—All dividends and other moneys received by the Minister in respect of shares of the Company shall be paid into or disposed of for the benefit of the Exchequer. 10

Restriction on issue
of shares.

6.—An issue of shares of the Company shall not be made unless the Minister, after consultation with the Minister for Finance, has authorised the issue.

Restriction on
alteration of
memorandum and
articles of
association.

7.—Notwithstanding anything contained in the Companies Acts, 1963 to 1983, or in the memorandum or articles of association of the Company, an alteration in the said memorandum or articles shall not be valid or effectual unless made with the previous approval of the Minister given after consultation with the Minister for Finance. 15

Memorandum and
articles of
association of
Company.

8.—(1) The memorandum and articles of association of the Company shall be in such form consistent with this Act as shall be approved by the Minister after consultation with the Minister for Finance. 20

(2) The Company shall take such steps as may be necessary under the Companies Acts, 1963 to 1983, to alter the memorandum and articles of association of the Company to make them consistent with this Act. 25

Obligation to
furnish balance
sheets etc., to
Minister.

9.—(1) The Company shall, as soon as may be after the end of each financial year of the Company, furnish to the Minister—

- (a) a balance sheet as at the end of that financial year duly audited by the auditor of the Company,
- (b) a profit and loss account for the financial year so audited, 30
and
- (c) a copy of the report of the directors to the shareholders for that financial year.

(2) The balance sheets and profit and loss accounts required by *subsection (1)* of this section shall be drawn up in such form as the Minister, after consultation with the Minister for Finance, shall direct. 35

(3) The Company shall, if so required by the Minister, furnish to the Minister any information he may require in respect of the balance sheets, profit and loss accounts or reports required by *subsection (1)* of this section, or in relation to the policy and operations (other than the day-to-day operations) of the Company. 40

(4) A copy of every balance sheet, profit and loss account and report furnished under *subsection (1)* of this section to the Minister shall be laid by him before each House of the Oireachtas as soon as

may be after such balance sheet, profit and loss account and report are so furnished to him.

10.—(1) The directors of the Company shall consist of such number of persons not exceeding five as may be determined from time to time by the Minister after consultation with the Minister for Finance.

Directors of Company.

(2) The directors of the Company shall be appointed by the Minister after consultation with the Minister for Finance.

(3) A director of the Company may be removed from office at any time by the Minister after consultation with the Minister for Finance.

10 (4) The directors of the Company shall hold office for such term and upon such terms and conditions as the Minister, after consultation with the Minister for Finance, may determine when appointing them.

11.—Every member of the Company shall hold his shares in the Company upon trust for the Minister and shall accordingly be bound to pay every dividend and other money received by such member in respect of such shares to the Minister for the benefit of the Exchequer and to transfer, as and when required by the Minister, such shares to the Minister or a person nominated in that behalf by the Minister.

Obligation of shareholders (other than Minister) to hold shares in trust for Minister.

12.—(1) Upon the retirement or death of a director of the Company or upon the office of a director becoming vacated in accordance with the articles of association of the Company, any shares held by such director shall, without the necessity for a transfer, vest in the Minister.

Vesting in Minister upon director's or other member's death, etc., of share held by such director or member.

25 (2) Upon the death of a member of the Company (other than a director) any shares held by such member shall, without the necessity for a transfer, vest in the Minister.

13.—(1) Where a director of the Company is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is appointed to such Assembly, he shall thereupon cease to be a director of the Company.

Membership of either House of Oireachtas by directors, officers or servants of Company.

35 (2) Where a person who is either an officer or servant of the Company is nominated as a member of Seanad Éireann or as a candidate for election to either House of the Oireachtas or to the Assembly of the European Communities or is appointed to such Assembly, he shall stand seconded from employment by the Company and shall not be paid by, or be entitled to receive from, the Company any remuneration or allowances—

40 (a) in case he is nominated as a member of Seanad Éireann or is appointed to such Assembly, in respect of the period commencing on such nomination or appointment (as the case may be) and ending when he ceases to be a member of Seanad Éireann or such Assembly,

45 (b) in case he is nominated as a candidate for election to either such House or to such Assembly, in respect of the period commencing on his nomination and ending when he ceases to be a member of that House or that Assembly (as the case may be) or fails to be elected or withdraws his candidature, as may be appropriate.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the Assembly of the European Communities shall, while he is so entitled or is such a member, be disqualified from becoming a director of the Company. 5

Guarantee by
Minister of certain
payments by The
Insurance
Corporation of
Ireland, public
limited company.

14.—(1) The Minister may, with the consent of the Minister for Finance, guarantee, in such form and manner and on such terms and conditions as the Minister may sanction, the payment by the Insurance Corporation of any moneys (including moneys in a currency other than the currency of the State) due and payable by it under any insurance policy signed and issued on or before the 15th day of March, 1985 by the Institute of London Underwriters on behalf of the Insurance Corporation or on behalf of the Insurance Corporation and other members of that institute or of any moneys (including moneys in a currency other than the currency of the State) due and payable by the Insurance Corporation to that institute on or before the 15th day of March, 1985. 10 15

(2) The Minister shall not so exercise the powers conferred on him by this section that the amount, or the aggregate amount, of moneys which he may at any one time be liable to pay on foot of any guarantee or guarantees under this section for the time being in force, together with the amount of moneys (if any) which he has previously paid on foot of any guarantee under this section and which has not been repaid by the Insurance Corporation, exceeds £20,000,000. 20

(3) The Minister shall, as soon as may be after the expiration of every financial year of the Insurance Corporation, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force at, the commencement of that year— 25

(a) in case any payment has been made by him under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to him on foot of the payment, 30

(b) the total amount of moneys paid by him under the guarantee and not repaid to him. 35

(4) Moneys paid by the Minister under a guarantee under this section shall be repaid to him (with interest thereon at such rate or rates as he appoints with the consent of the Minister for Finance) by the Insurance Corporation within two years from the date of the advance of the moneys out of the Central Fund. 40

(5) Where the whole or any part of the moneys required by *subsection (4)* of this section to be repaid to the Minister has not been paid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas. 45

(6) Notwithstanding the provision of moneys under *subsection (5)* of this section to repay any amount to the Central Fund, the Insurance Corporation shall remain liable to the Minister in respect of that amount, and that amount, with interest thereon at such rate or rates as the Minister appoints, shall be repaid to him by the Insurance Corporation at such times and in such instalments as he appoints and, in default of repayment as aforesaid and without prejudice to any other method of recovery, shall be recoverable by the Minister from the Insurance Corporation as a simple contract debt in any court of competent jurisdiction. 50 55

(7) Moneys paid by the Insurance Corporation under *subsection (4) or (6)* of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance thinks fit.

5 (8) For the purposes of calculating the amount of the moneys guaranteed by the Minister under this section by reference to the limit on moneys in *subsection (2)* of this section, the equivalent in the currency of the State shall be calculated at the exchange rate prevailing at the time of the giving of the guarantee.

10 (9) In this section "the Insurance Corporation" means The Insurance Corporation of Ireland, public limited company.

15 15.—(1) All moneys from time to time required by the Minister to meet sums which may become payable by him under *section 14* of this Act shall be advanced to him by the Minister for Finance out of the Central Fund or the growing produce thereof.

Provision of moneys for payments out of Central Fund.

20 (2) The Minister for Finance may, for the purposes of providing for advances out of the Central Fund under this section, borrow on the security of the Central Fund or the growing produce thereof any sums required for the purpose and, for the purpose of such borrowing, he may create and issue securities bearing interest at such rate and subject to such conditions as to repayment, redemption or any other matter as he thinks fit, and shall pay all sums so borrowed into the Exchequer.

25 (3) The principal of and interest on all securities issued under this section and the expenses incurred in connection with the issue of the securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

16.—(1) The Insurance Act, 1964, is hereby amended—

30 (a) in section 2, by the insertion of the following subsection after subsection (3):

Amendment of sections 2 and 3 of Insurance Act, 1964, and section 2 of Insurance (No. 2) Act, 1983.

“(3A) The Accountant may, for the purpose of giving security with respect to any borrowings for the Fund—

35 (a) charge the Fund and payments into the Fund, and

(b) determine, and give undertakings in relation to, the order in which payments out of the Fund shall be made to specified creditors of the Fund and specified other persons entitled to such payments and determine, and give undertakings in relation to, the amounts of such payments, and

40 (c) determine, and give undertakings in relation to, the order in which payments out of specified future income of the Fund shall be made to specified creditors of the Fund and specified other persons entitled to such payments.”,

45

and

(b) in section 3, by the insertion of the following subsection after subsection (5):

“(6) In exercising its jurisdiction under subsection (2B), of this section, the High Court shall have regard to—

(a) the amount of the assets of, and of the then ascertainable income accruing thereafter to, the Fund, and

(b) the amount of the sums then properly payable out of the Fund and of the then ascertainable sums properly payable thereafter out of the Fund.”. 10

(2) Section 2 of the Insurance (No. 2) Act, 1983, shall have effect, and be deemed always to have had effect, as if “relate or” were inserted in subsection (8) before “upon any subsequent date”.

Expenses.

17.—The expenses incurred by the Minister in the administration of this Act, shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 15

Short title and collective citation.

18.—(1) This Act may be cited as the Insurance (Miscellaneous Provisions) Act, 1985.

(2) Section 16 of this Act and the Insurance Acts, 1909 to 1983, may be cited together as the Insurance Acts, 1909 to 1985. 20

AN BILLE ÁRACHAIS (FORÁLACHA
ILGHNÉITHEACHA), 1985

BILLE

dá ngairtear

Acht dá údarú don Aire Tionscail, Trádála, Tráchtála agus Turasóireachta scaireanna a thógáil i Sealúchais Árachais Teoranta, do dhéanamh socrú chun an tAire Tionscail, Trádála, Tráchtála agus Turasóireachta do ráthú íocaíochtaí áirithe ag Corparáid Árachais na hÉireann, cuideachta theoranta phoiblí, do leasú na nAchtanna Árachais, 1909 go 1983, agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

*Ritheadh ag dhá Theach an Oireachtais,
3 Aibreán, 1985*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

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INSURANCE (MISCELLANEOUS
PROVISIONS) BILL, 1985

BILL

entitled

An Act to authorise the Minister for Industry, Trade, Commerce and Tourism to take up shares of *Sealúchais Árachais Teoranta*, to provide for the guaranteeing by the Minister for Industry, Trade, Commerce and Tourism of certain payments by The Insurance Corporation of Ireland, public limited company, to amend the Insurance Acts, 1909 to 1983, and to provide for connected matters.

*Passed by both Houses of the Oireachtas,
3rd April, 1985*

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