



DÁIL ÉIREANN

AN BILLE UM MARGAÍ IN IONSTRAIMÍ AIRGEADAIS AGUS FORÁLACHA ILGHNÉITHEACHA 2007 MARKETS IN FINANCIAL INSTRUMENTS AND MISCELLANEOUS PROVISIONS BILL 2007

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM MARGAÍ IN IONSTRAIMÍ AIRGEADAIS AGUS FORÁLACHA ILGHNÉITHEACHA 2007 —AN CHOISTE

MARKETS IN FINANCIAL INSTRUMENTS AND MISCELLANEOUS PROVISIONS BILL 2007 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 3

1. In page 3, subsection (1)(a), to delete line 29.

—Joan Burton.

SECTION 5

2. In page 5, subsection (4)(a), line 8, after “offence,” to insert the following:

“in particular any penalty provided by regulation 188 of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007),”.

—Joan Burton.

SECTION 6

3. In page 5, line 13, after “1942” to insert the following:

“(inserted by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003)”.

—Joan Burton.

SECTION 7

4. In page 5, paragraph (a), line 20, after “33AK(10)” to insert the following:

“(inserted by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003)”.

—Joan Burton.

SECTION 9

5. In page 7, subsection (1), line 4, to delete “38(4), 58(9), 59(8), 60(6), 61(3),” and substitute “58(9), 59(8), 60(6),”.

—An Tánaiste agus Aire Airgeadais.

SECTION 12

6. In page 11, paragraph (a), line 33, to delete “after section 3” and substitute “before section 4”.

—An Tánaiste agus Aire Airgeadais.

[SECTION 12]

7. In page 12, line 2, to delete “subsection (3)” and substitute “subsection (1)”.
—An Tánaiste agus Aire Airgeadais.

SECTION 13

8. In page 12, line 31, after “1942” to insert the following:

“(as amended by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003)”.

—Joan Burton.

SECTION 14

9. In page 14, lines 11 and 12, to delete “Acts 1990 and 2000” and substitute “(Amendment) Act 2000”.

—Joan Burton.

10. In page 14, paragraph (a), lines 13 and 14, to delete all words from and including “of” in line 13 down to and including “2000” in line 14.

—Joan Burton.

11. In page 14, paragraph (b), lines 19 and 20, to delete all words from and including “of” in line 19 down to and including “2000” in line 20.

—Joan Burton.

12. In page 14, paragraph (c), lines 25 and 26, to delete all words from and including “of” in line 25 down to and including “2000” in line 26.

—Joan Burton.

13. In page 14, paragraph (d), lines 38 and 39, to delete all words from and including “of” in line 38 down to and including “2000” in line 39.

—Joan Burton.

14. In page 15, paragraph (e), lines 11 and 12, to delete all words from and including “of” in line 11 down to and including “2000” in line 12.

—Joan Burton.

15. In page 15, paragraph (f), lines 15 and 16, to delete all words from and including “of” in line 15 down to and including “2000” in line 16.

—Joan Burton.

SECTION 17

16. In page 17, line 44, after “union,” to insert the following:

“or 40 per cent of the total gross loan book balance outstanding at that time in respect of all loans made by the credit union where written approval is received from the Bank,”.

—An Tánaiste agus Aire Airgeadais.

17. In page 18, line 7, to delete “union, or” and substitute the following:

“union, or 15 per cent of the total gross loan book balance outstanding at that time in respect of all loans made by the credit union where written approval is received from the Bank, or”.

—An Tánaiste agus Aire Airgeadais.

[*NEW SECTIONS*]

NEW SECTIONS

18. In page 18, after line 15, to insert the following new section:

“Amendment of Insurance Act 1936 and certain statutory regulations.

18.—(1) The Insurance Act 1936 is amended by repealing sections 9 and 10.

(2) The European Communities (Non-Life Insurance) Regulations 1976 (S.I. 115 of 1976) are consequentially amended by revoking paragraph (5) of Regulation 4.

(3) The European Communities (Life Assurance) Regulations 1984 (S.I. 57 of 1984) are consequentially amended by revoking paragraph (4) of Regulation 4.”.

—An Tánaiste agus Aire Airgeadais.

19. In page 18, after line 15, to insert the following new section:

“Further amendments of Central Bank Acts.

19.—The Central Bank Act 1997 is amended—

(a) in section 28, by adding the following definitions:

“ ‘credit’ includes any deferred payment, cash loan or other form of financial accommodation, such as—

(a) consumer credit, hire purchase or mortgage credit,

(b) factoring, with or without recourse,

(c) financial leasing, or

(d) financing of commercial transactions;

‘home reversion agreement’ means an agreement between a vendor and a home reversion firm that provides—

(a) for the conveyance by the vendor to the home reversion firm of an estate or interest in land (which includes the principal residence of the vendor or of the vendor’s dependants) for a discounted sum or an income (or both), and

(b) for the vendor to retain the right to live in the residence until the occurrence of one or more events specified in the agreement;

‘home reversion firm’ means a person carrying on a business of entering into home reversion agreements;

‘leasing agreement’ means an agreement of more than 3 months duration for the bailment of goods to a hirer under which the property in the goods remains with the owner, and includes a consumer-hire agreement within the meaning of the Consumer Credit Act 1995;

‘hire-purchase’ means a bailment of goods—

(a) under which—

(i) the hirer may buy the goods, or

(ii) if the agreement is complied with, the property in the goods will pass to the hirer,

in return for periodical payments, or

[*NEW SECTIONS*]

(b) in which, by virtue of 2 or more agreements, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and either—

(i) the hirer may buy the goods, or

(ii) if the agreements are complied with, the property in the goods will pass to the hirer;

‘mortgage credit’ means an agreement for the provision of credit to a person on the security of a mortgage of a freehold or leasehold estate or interest in land;

‘retail credit firm’ means a person whose business consists wholly or partly of the provision of credit to—

(a) a consumer within the meaning of the Consumer Credit Act 1995,

(b) a person (whether or not that person is an incorporated body) but excluding any incorporated body that has an annual turnover in excess of €3,000,000,

(c) any unincorporated group of persons, or

(d) an incorporated body that—

(i) has an annual turnover of €3,000,000 or less in the financial year preceding that in which the credit is granted, and

(ii) is not a member of a group of companies that has a combined turnover greater than €3,000,000,

but does not include a person who, in respect of such a business—

(e) is a regulated financial service provider within the meaning of the Central Bank Act 1942, or

(f) is the holder of a licence under section 8 of the Pawnbrokers Act 1964;”;

(b) in section 28, by substituting the following definition for the definition of “regulated business”:

“ ‘regulated business’ means a bureau de change business, a money transmission business, a home reversion firm or a retail credit firm;”;

(c) immediately before section 29, by substituting for the Chapter heading the following:

“CHAPTER 2

Carrying on regulated business without authorisation prohibited”;

(d) by inserting the following section after section 31:

[*NEW SECTIONS*]

“Provisions supplementary to section 31 applicable to retail credit and home reversion firms.

31A.—For the purposes of section 31(2)(b), in order to obtain and retain authorisation, a retail credit firm or home reversion firm shall satisfy the Bank—

- (a) that, where applicable, the memorandum and articles of association of the firm will enable it to operate in accordance with this Act, and any condition or requirement that the Bank may impose,
- (b) as to the probity and competence of each of the firm’s directors and managers,
- (c) as to the suitability of each of the firm’s qualifying shareholders or partners,
- (d) as to the organisational structure and management skills of the firm and that adequate levels of staff and expertise will be employed to carry out its activities,
- (e) that the firm has and will follow procedures that will enable the Bank to be supplied with all information necessary for the performance of the Bank’s supervisory functions and to enable the public to be supplied with information that the Bank specifies,
- (f) that the organisation of the firm’s business structure is such that it, and any of its associated or related undertakings, (so far as appropriate and practicable) are capable of being supervised adequately by the Bank, and
- (g) as to the conduct of the firm’s business, financial resources and any other matters that the Bank considers necessary in the interests of the proper and orderly regulation and supervision of authorised firms or in the interests of the protection of customers or potential customers.”;

(e) by inserting the following section after section 32:

“Additional provisions applicable to retail credit and home reversion firms.

32A.—(1) An authorisation granted by the Bank under section 31 to a retail credit or home reversion firm may specify classes of services, and additional services, that the firm may provide.

(2) An authorisation granted by the Bank under section 31 of this Act to a retail credit firm may include an authorisation to act as a home reversion firm.

(3) The Bank may amend—

- (a) the classes of retail credit services or other services that may be provided in accordance with subsections (1) or (2), or
- (b) the designation or classification of firms or services.

[*NEW SECTIONS*]

(4) For the purposes of subsections (1) to (3), the Bank may use such designation or classification of firms or services as the Bank considers appropriate to describe the services provided.

(5) At any time before granting or refusing an authorisation to a firm, the Bank may—

- (a) request such further information from the firm, or
- (b) instruct an authorised officer to make such inquiries, or carry out such investigations,

as it considers necessary for the purpose of properly evaluating an application. Any such inquiries or investigations shall be carried out in accordance with this Act.

(6) In the case of a retail credit or home reversion firm authorised in another EEA Country, the Bank—

- (a) shall have regard to any requirements imposed on the firm by an authority of that country that appears to the Bank to exercise a regulatory or supervisory role similar to that of the Bank in relation to the firm, and
- (b) may exchange with that authority information relevant to the carrying out of the Bank's functions under this Act or the functions of that authority under the laws of that country.”;

(f) by inserting the following section after section 33:

“Imposition of conditions or requirements on authorised retail credit firms and home reversion firms.

33A.—(1) Without limiting section 33, the Bank may do all or any of the following in respect of an authorised retail credit firm or an authorised home reversion firm:

- (a) make the firm's authorisation subject to such conditions or requirements, or both, as it considers appropriate, relating to—
 - (i) the proper and orderly regulation and supervision of retail credit firms or authorised home reversion firms, and
 - (ii) the protection of their customers or potential customers;
- (b) impose conditions or requirements, or both, relating to the affairs or activities in an associated undertaking or a related undertaking;
- (c) require the display on a credit agreement or home reversion agreement, or on any other relevant document, of a notice in a form provided or prescribed by the Bank of any information relevant to the agreement;

[*NEW SECTIONS*]

(d) at any time, impose conditions or requirements, or both, on an authorised firm and either amend or revoke any condition or requirement imposed under this paragraph or under paragraph (a), (b) or (c).

(2) A condition or requirement referred to in subsection (1) may be imposed in relation to any or all of the following:

- (a) an authorised firm;
- (b) all authorised firms;
- (c) a class or classes of authorised firms;
- (d) a specified period of time or times;
- (e) an associated undertaking or related undertaking;
- (f) such matters relating to the proper and orderly regulation and supervision of authorised firms, and the protection of their customers or potential customers, as the Bank considers appropriate.

(3) Without limiting subsections (1) and (2), the Bank may impose conditions or requirements on an authorised firm, or a class of authorised firms concerning—

- (a) the level of training, qualifications or professional competence of managers, officers or employees,
- (b) the provision of information to the Bank or to a person specified by the Bank, and
- (c) the application of a prescribed code of practice relating to—
 - (i) regulated financial service providers within the meaning of the Central Bank Act 1942, or
 - (ii) a class of regulated financial service providers whose business appears to be comparable to that of an authorised firm or a class of authorised firms.”;

(g) by inserting the following section after section 34B:

“Transitional provisions.

34C.—(1) Despite section 29, a person carrying on the business of a retail credit firm, or a home reversion firm, immediately before the commencement of Part 2 of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007 is taken to be authorised as a regulated business until the Bank has granted or refused authorisation to the person, provided the person applies to the Bank under section 30 for authorisation no later than 3 months after that commencement.

(2) If a person is taken to be authorised as a regulated business under subsection (1), the Bank may do either or both of the following:

[*NEW SECTIONS*]

(a) impose on that person such conditions or requirements or both as the Bank considers appropriate relating to the proper and orderly regulation and supervision of a regulated business;

(b) direct that person not to carry on the business of a retail credit firm, or the business of a home reversion firm, for such period (not exceeding 3 months) as is specified in the direction.

(3) A condition or requirement imposed, or a direction given, under this section is an appealable decision for the purposes of Part VIIA of the Central Bank Act 1942.”;

(h) by adding the following part immediately after Part V:

“PART VA

NOTIFICATION OF COMMERCIAL LENDING

Commercial
lenders to give
notice to the
Bank.

36O.—(1) In this section ‘commercial lender’ means a person whose business, trade or profession is the provision of credit, but does not include a person who is authorised, licensed, or taken to be authorised or licensed to provide credit under this or any other enactment.

(2) A person (being a company registered in the State or any other person operating in the State) shall not carry on, either in the State or elsewhere, the business of a commercial lender, unless the person has given to the Bank at least 30 days’ notice of the person’s intention to carry on the business of a commercial lender.

(3) The notice shall be in such form and manner, and contain such information, as the Bank specifies and, in particular, shall include, information in respect of the following:

(a) the name of the person concerned;

(b) the address of the business premises of that person;

(c) a description of that person’s activities;

(d) if that person is a company, particulars of—

(i) ownership and share capital of the company, and

(ii) its directors;

(e) particulars of that person’s accountants, auditors and solicitors.

(4) As soon as practicable after any change occurs to information that has been included in a notice referred to in subsection (2), the person concerned shall notify the change to the Bank.

[*NEW SECTIONS*]

(5) A person who was carrying on the business of a commercial lender immediately before the commencement of this section shall give to the Bank the notice required under subsection (2) not later than 60 days after the date of that commencement.

(6) The Bank may, by notice in writing, direct a person to stop carrying on the business of a commercial lender, either indefinitely or for such period as the Bank specifies in the direction, if—

- (a) the person contravenes subsections (2) or (4), or
- (b) information included in a notice given under subsection (2) or (4) is, to the person's knowledge, false or misleading, or
- (c) the Bank has information showing that the person has engaged in unlawful activities, either within the State or elsewhere.

(7) The Bank may give a direction to a person under subsection (6) only if—

- (a) it has notified the person in writing of its intention to give the direction, together with a statement of the reasons for that intention,
- (b) the person has, within 28 days after the date of the notification, been given an opportunity to make representations in writing to the Bank in relation to the proposed direction, and
- (c) the Bank has taken into consideration any representation made to it under paragraph (b).

(8) A direction under this section is an appealable decision for the purposes of Part VIIA of the Central Bank Act 1942.

(9) The Bank may from time to time vary or revoke a direction given under this section.

(10) The Bank shall establish, keep and publish a register of persons who have given notices to the Bank under subsection (2).

(11) A person who—

- (a) contravenes subsection (2),
- (b) fails to discharge a duty imposed on the person by subsection (4) or (5), or
- (c) fails to comply with a direction under subsection (6),

commits an offence.

(12) A person found guilty of an offence under subsection (11) is liable—

[*NEW SECTIONS*]

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

(b) on conviction on indictment to a fine not exceeding €5,000,000 or imprisonment for a term not exceeding 5 years, or both.”.”

—An Tánaiste agus Aire Airgeadais.

20. In page 18, after line 15, to insert the following new section:

“Amendment of Freedom of Information Act 1997.

20.—The Freedom of Information Act 1997 is amended by inserting in Part 1 of the Third Schedule—

(a) in column (2), “Ordnance Survey Ireland Act 2001”,

(b) in column (1), opposite the reference to the Ordnance Survey Ireland Act 2001, “No. 43 of 2001”, and

(c) in column (3), opposite the reference to the Ordnance Survey Ireland Act 2001, “Section 23”.”.

—An Tánaiste agus Aire Airgeadais.

21. In page 18, after line 15, to insert the following new section:

“Revocation of Credit Union Act 1997 (Alteration of Financial Limits) Regulations 2007.

21.—The Credit Union Act 1997 (Alteration of Financial Limits) Regulations 2007 (S.I. No. 193 of 2007) are revoked.”.

—An Tánaiste agus Aire Airgeadais.

22. In page 18, after line 15, to insert the following new section:

“Amendment of Investor Compensation Act 1998.

22.—The Investor Compensation Act 1998 is amended—

(a) in the definition of “authorised investment firm” in section 2(1), by substituting the following for paragraph (b):

“(b) an authorised investment firm as defined in the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007), or”,

(b) in section 2(1), by deleting the definition of “authorised member firm”;

(c) in section 2(1), by substituting the following for the definition of “client”:

“ ‘client’ means a person—

(a) to whom an investment firm provides investment business services, or

(b) who has entrusted money or investment instruments to an investment firm in connection with the provision of investment business services by the firm;”;

(d) in section 2(1), by substituting the following for the definition of “insurance intermediary”:

[*NEW SECTIONS*]

“ ‘insurance intermediary’ means a registered insurance intermediary within the meaning of the European Communities (Insurance Mediation) Regulations 2005, but does not include a solicitor who—

(a) has a valid practising certificate issued under the Solicitor’s Acts 1954 to 1994, and

(b) carries on the relevant activities only incidentally to the legal services he or she provides;”;

(e) in section 2(1), by substituting the following for the definition of “investment business services”:

“ ‘investment business services’ has the meaning given by the Act of 1995, and includes—

(a) investment services as defined in the European Communities (Markets in Financial Instruments) Regulations 2007, and

(b) the activities of an insurance intermediary;”;

(f) in the definition of “investment firm” in section 2(1), by substituting the following paragraphs for paragraph (b):

“(b) an authorised investment firm as defined in the European Communities (Markets in Financial Instruments) Regulations 2007,

(ba) a person who was formerly an authorised investment firm and whose authorisation has been revoked;”;

(g) in section 2(1), by substituting the following definition for the definition of “investment instruments”:

“ ‘investment instruments’ has the meaning given by the Act of 1995, and includes instruments of the kind listed in Part 3 of Schedule 1 of the European Communities (Markets in Financial Instruments) Regulations 2007;”;

(h) by adding the following definition after the definition of “joint investment business”:

“ ‘liquidation proceeding’ includes—

(a) a compulsory or court liquidation under the Companies Acts,

(b) a creditor’s voluntary liquidation under the Companies Acts,

(c) any receivership or analogous process,

(d) bankruptcy proceedings under the Bankruptcy Act 1988, and

(e) any scheme of arrangement in consequence of the appointment of an examiner;”;

(i) in section 2(1), by deleting the definition of “member firm”;

(j) by inserting the following definition after the definition of “local authority”:

[*NEW SECTIONS*]

“ ‘Markets in Financial Instruments Directive’ means Directive 2004/39/EC of 21 April 2004;”;

- (k) in section 2(1), by substituting the following for the definition of “professional investor”:

“ ‘professional client’ has the meaning given by the European Communities (Markets in Financial Instruments) Regulations 2007;”;

- (l) in section 2(1), by substituting the following for the definition of “ruling”:

“ ‘ruling’ means a Court decision that—

(a) is made in relation to an investment firm for reasons directly related to the financial circumstances of the firm, and

(b) precludes clients of the firm from pursuing claims against the firm for—

(i) the return of money owed, or belonging to, the client, and held on behalf of the client by the firm in connection with the provision of investment business services, and

(ii) the return of investment instruments belonging to the client and held, administered or managed by the firm on behalf of the client in connection with the firm’s provision to the client of those services,

but does not include a Court decision made under the Companies Acts appointing an examiner or provisional liquidator;”;

- (m) in section 2, by adding the following subsection after subsection (1):

“(1A) For the purpose of paragraph (b) of the definition of ‘ruling’ in subsection (1), an investment firm is taken, in the circumstances described in section 52(10) of the Act of 1995, to hold client money and investment instruments.”;

- (n) in section 2(5)(b), by substituting “the administration of” for “administering”;

- (o) in section 9(4), by substituting the following paragraph for paragraph (b):

“(b) in relation to investment firms, an authorised officer, or an inspector, appointed under the European Communities (Markets in Financial Instruments) Regulations 2007;”;

- (p) in section 20, by substituting the following for subsection (4):

“(4) The Company is not responsible for expenses that an administrator of an investment firm incurs in respect of functions that the administrator performs contemporaneously with functions that the administrator performs as liquidator, receiver or trustee in bankruptcy of the firm, even though those functions may also relate to the performance of functions as administrator of the firm.”;

- (q) in section 21(3), by substituting the following for paragraph (b):

[*NEW SECTIONS*]

“(b) despite paragraph (a), the Company may, when specifying rates, or amounts of contributions, or bases, for the calculation of contributions for investment firms, take account of any money, or investment instruments, entrusted to those firms (whether before or after the commencement of this Act) in connection with the provision by those firms of investment business services to the client.”;

(r) in section 24, by substituting “and by clients” for “and by investors”;

(s) in section 25(6)(d), by substituting “compensation for eligible investors” for “compensation for investors”;

(t) in section 28 by substituting the following for subsection (7):

“(7) The supervisory authority, in accordance with the European Communities (Markets in Financial Instruments) Regulations 2007, may revoke the authorisation of an investment firm that under those Regulations is an authorised investment firm, if the firm does not comply with a direction given under section 27.”;

(u) in section 28(8), by substituting “the provision of investment business services and shall” for “the provision of investment services listed in the Annex to the Investment Services Directive and shall”;

(v) In section 28, by adding the following after subsection (9):

“(9A) The supervisory authority, in accordance with the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2003, may revoke the authorisation of an investment firm that, under those Regulations, is a management company authorised to undertake the services referred to in Regulation 16(3) of those Regulations, if the firm does not comply with a direction given to it under section 27.”;

(w) in section 28(10), by substituting “shall not give less than” for “shall not give less than”;

(x) in section 29(5), by substituting “to which section 28(9) applies” for “to which section 28(6)(d) applies”;

(y) in section 30(1) by substituting the following for the definition of “compensatable loss”:

“ ‘compensatable loss’ means 90 per cent of the amount of an eligible investor’s net loss or €20,000, whichever is the lesser;”;

(z) in section 30(1) by substituting the following for paragraph (b) of the definition of “net loss”:

“(b) investment instruments belonging to a client of the investment firm, and held, administered or managed by that firm for the client, in connection with the provision of investment business services by that firm to the client, the value of those instruments being determined, so far as possible, by reference to their market value.”;

—An Tánaiste agus Aire Airgeadais.

[*NEW SECTIONS*]

23. In page 18, after line 15, to insert the following new section:

“Further amendment
of Investor
Compensation Act
1998.

23.—The Investor Compensation Act 1998 is further amended—

(a) in each of subparagraphs (i) and (ii) of section 30(2)(c), by substituting “the provision of investment business services” for “the provision of investment services”;

(b) in section 30, by adding the following subsection:

“(5) An investment firm is, in the circumstances described in section 52 (10) of the Act of 1995, taken to hold client money and investment instruments.”;

(c) in section 32(2), by substituting “a client” for “an investor”;

(d) in section 32, by inserting the following subsection after subsection (2):

“(2A) A client may appeal to the Irish Financial Services Appeals Tribunal against a decision of the supervisory authority under subsection (2) not to treat the application as if it were made within the stipulated period.”;

(e) in section 32(4), by substituting “a client” for “an individual”;

(f) in section 33, by substituting the following for subsection (2):

“(2) On being appointed as administrator to an investment firm under subsection (1)—

(a) the administrator has, in relation to the firm, all the powers of an authorised officer under the Act of 1995 and the European Communities (Markets in Financial Instruments) Regulations 2007, and

(b) the powers available to an authorised officer under that Act and those Regulations apply in relation to the firm accordingly.”;

(g) in section 33(3), by substituting “those eligible investors” for “those investors”;

(h) in section 33(3A), by substituting “those eligible investors” for “those investors”;

(i) by substituting the following section for section 33A:

“Court to appoint liquidator, etc. of investment firm as firm’s administrator in certain circumstances. 33A.—The Court shall, on appointing a liquidator, receiver, the official assignee or a trustee in Bankruptcy in respect of an investment firm, also appoint the liquidator, receiver, official assignee or trustee as administrator of the firm, unless the supervisory authority, with the agreement of the Company, otherwise requests.”;

(j) in section 34(3) by substituting “the eligible investor” for “the investor”;

(k) in section 34(6) by substituting “the Company shall endeavour insofar as possible” for “the Company shall endeavour”;

[*NEW SECTIONS*]

- (l) in section 35, by deleting subsection (4);
 - (m) in section 35(5A), by substituting “the claim of the eligible investor” for “the claim of the investor”;
 - (n) in section 35(6), by substituting “the Act of 1995, section 47 of the Act of 1989 or the European Communities (Markets in Financial Instruments) Regulations 2007” for “the Act of 1995 or section 47 of the Act of 1989”;
 - (o) in section 35(6A), by substituting “the claim of the eligible investor” for “the claim of the investor”;
 - (p) in section 35(8), by substituting “money belonging to a client and held by an investment firm (being a credit institution) in connection with the provision of investment business services” for “monies belonging to an investor and held by an investment firm which is a credit institution in connection with investment business”;
 - (q) in the definition of ‘RAV’ in section 36(1), by substituting “client” for “investor”, where secondly appearing;
 - (r) in section 38(1), by substituting “clients” for “investors”;
 - (s) in section 38(2), by substituting “Markets in Financial Instruments Directive” for “Investment Services Directive”;
 - (t) in section 38(3), by substituting “entrusted to” for “placed with”;
 - (u) in section 39(1), by substituting “the Markets in Financial Instruments Directive” for “Article 17 of the Investment Services Directive”;
 - (v) in the definition of “client” in section 40(1), by substituting “the Markets in Financial Instruments Directive” for “Article 17 of the Investment Services Directive”;
 - (w) in section 40(1), by substituting the following definition for the definition of “investment firm”:
 - “ ‘investment firm’ means an investment firm authorised in another Member State for the purposes of the Markets in Financial Instruments Directive;”;
 - (x) in section 40, by substituting the following subsections for subsection (2):
 - “(2) As soon as practicable after—
 - (a) becoming authorised in another Member State for the purposes of the Markets in Financial Instruments Directive, and
 - (b) establishing a branch in the State in accordance with that Directive,
- an investment firm may, by giving notice in writing to the Company, exercise the option of participating in investor compensation arrangements in the State in accordance with Article 7.1 of the Investor Compensation Directive. On giving such a notice, the firm becomes an investment firm for the purposes of this Act, subject only to the exceptions specified by this section.”;

[*NEW SECTIONS*]

- (v) in section 42(3), by substituting “investor compensation scheme approved under section 25” for “investor compensation scheme under this Act”.”

—An Tánaiste agus Aire Airgeadais.

24. In page 18, after line 15, to insert the following new section:

“Amendment of section 2(1) of National Pensions Reserve Fund Act 2000.

24.—Section 2(1) of the National Pensions Reserve Fund Act 2000 is amended by substituting the following definition for the definition of “Gross National Product”:

“ ‘Gross National Product’ means, for the year in which payments are made to the Fund under section 18, the estimate (as corresponding in its composition to the definition of gross national product at market prices in use by the Central Statistics Office) of gross national product at market prices for that year published by the Minister with the Budget;”.”

—An Tánaiste agus Aire Airgeadais.

25. In page 18, after line 15, to insert the following new section:

“Amendment of Ordnance Survey Ireland Act 2001.

25.—The Ordnance Survey Ireland Act 2001 is amended as follows—

- (a) in section 1(1), by substituting the following for the definition of “Minister”:

“ ‘Minister’ means the Minister for Communications, Energy and Natural Resources;”;

- (b) in each of subsections (1) and (2) of section 6, by adding “with the consent of the Minister for Finance” after “The Minister may”;

- (c) in each of sections 7(1), 8 and 9(1), by adding “and the Minister for Finance” after “the consent of the Minister”;

- (d) in section 9(2), by adding “and the Minister for Finance” after “the Minister”;

- (e) in each of paragraphs (a) and (b) of section 11(8), by adding “with the consent of the Minister for Finance” after “the Minister”;

- (f) in section 14(8), by adding “and the Minister for Finance” after “the Minister” in the first place in which it occurs;

- (g) in section 14(11), by adding “with the consent of the Minister for Finance” after “the Minister”;

- (h) in section 15(1), by adding “for Finance” after “the Minister”;

- (i) in each of the following: section 15(3); paragraphs (a) and (b) of section 15(4); the second reference to Minister in section 17(4); and section 17(6), by adding “and the Minister for Finance” after “the Minister”;

- (j) in section 17(5), by substituting “who shall refer the dispute to the Minister for Finance” for “whose decision shall be final”;

- (k) in section 24, by adding “and to such extent as may be sanctioned by the Minister for Finance” after “moneys provided by the Oireachtas”;

[*NEW SECTIONS*]

- (l) in section 25(5), by substituting “by the Minister with the consent of the Minister for Finance.” for “by him or her.”;
- (m) in section 28(2), by adding “and the Minister for Finance” after “the Minister”;
- (n) in section 37, by adding “, to such extent as may be sanctioned by the Minister for Finance,” after “shall”.

—An Tánaiste agus Aire Airgeadais.

TITLE

26. In page 3, line 11, after “1938” to insert the following:

“, THE NATIONAL PENSIONS RESERVE FUND ACT 2000, THE ORDNANCE SURVEY IRELAND ACT 2001, AND TO THE FREEDOM OF INFORMATION ACT 1997”.

—An Tánaiste agus Aire Airgeadais.