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Explanatory Memorandum](#)

**AN BILLE UM AN mBANC-CHORPARÁID ANGLA-
ÉIREANNACH (UIMH. 2) 2009**
ANGLO IRISH BANK CORPORATION (NO. 2) BILL 2009

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Power of Minister to apply for appointment of inspector into affairs of Bank.
 2. Short title and collective citation.
-

ACTS REFERRED TO

Anglo Irish Bank Corporation Act 2009	2009, No. 1
Company Law Enforcement Act 2001	2001, No. 28
Companies Acts	



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ANGLO IRISH BANK CORPORATION (NO. 2) BILL 2009

BILL

5 *entitled*

AN ACT TO PROVIDE FOR THE APPOINTMENT OF AN
INSPECTOR INTO THE AFFAIRS OF ANGLO IRISH
BANK CORPORATION LIMITED; AND TO PROVIDE
FOR CONNECTED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

15 1.—(1) The Minister may, and shall if required to do so pursuant
to a resolution under this section passed by both Houses of the
Oireachtas, apply to the High Court for an order under the Compan-
ies Acts for the appointment of one or more inspectors to investigate
the affairs of Anglo Irish Bank, having regard in particular to the
questions as to whether—

Power of Minister
to apply for
appointment of
inspector into
affairs of Bank.

20 (a) its affairs have been conducted with intent to defraud its
creditors or the creditors of any other person or other-
wise for a fraudulent or unlawful purpose or in an unlaw-
ful manner or in a manner which is unfairly prejudicial to
some part of its members, or that any actual or proposed
act or omission of the company (including an act or omis-
sion on its behalf) was so prejudicial,

25 (b) persons connected with the management of its affairs have
in connection therewith been guilty of fraud, misfeasance
or other misconduct towards it or towards its members,

(c) that its members have not been given all the information
relating to its affairs which they might reasonably expect,

30 (d) such other or additional grounds as the Minister specifies
in his or her application to the High Court.

35 (2) For the purposes of *subsection (1)*, the Minister has all such
powers as are necessary to enable him or her to apply to the High
Court for an order of the kind referred to in that subsection and the
High Court shall hear and determine that application as if the Com-
pany Law Enforcement Act 2001, in respect of applications concern-
ing Anglo Irish Bank, vested those powers concurrently in the Mini-
ster and in the Director of Corporate Enforcement, so as to be
capable of being exercised by either of them.

(3) Notwithstanding *subsection (1)*, the Minister is not required to make an application under that subsection if he or she notifies both Houses of the Oireachtas that the Director of Corporate Enforcement has applied to the High Court for an order under the Companies Acts for the appointment of one or more inspectors to investigate the affairs of Anglo Irish Bank. 5

Short title and
collective citation.

2.—(1) This Act may be cited as the Anglo Irish Bank Corporation (No. 2) Act 2009.

(2) This Act and the Anglo Irish Bank Corporation Act 2009 may be cited together as the Anglo Irish Bank Corporation Acts 2009 10 and shall be construed together as one Act.



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EXPLANATORY MEMORANDUM

Purpose of Bill

The purpose of the Bill is to enable the Minister for Finance to make direct application to the High Court for the appointment of an inspector into the affairs of Anglo Irish Bank Corporation Limited.

Provisions of Bill

Section 1 provides that the Minister may, and shall if required to do so pursuant to a resolution passed by both Houses of the Oireachtas, apply to the High Court for an order under the Companies Acts for the appointment of one or more inspectors to investigate the affairs of Anglo Irish Bank. Such an application would have regard in particular to the questions as to whether:

- the affairs of the bank have been conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose or in an unlawful manner or in a manner which is unfairly prejudicial to some part of its members, or that any actual or proposed act or omission of the company (including an act or omission on its behalf) was so prejudicial,
- persons connected with the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members,
- that its members have not been given all the information relating to its affairs which they might reasonably expect,
- such other or additional grounds as the Minister specifies in his or her application to the High Court.

It is specified that, for the purposes of such an application, the Minister has all such powers as are necessary to enable him or her to apply to the High Court for the appointment of an inspector.

However, the Minister is not required to make an application if he or she notifies both Houses of the Oireachtas that the Director of Corporate Enforcement has applied to the High Court for such an order.

Section 2 provides in the normal way for the short title and collective citation and construction of the Bill.

Joan Burton TD,
Feabhra, 2009.

Wt. 38366. 651. 2/09. Cahills. (X53917). Gr. 30-15.