



SEANAD ÉIREANN

BILLE AN BHAINC CEANNAIS (MAOIRSIÚ AGUS FORFHEIDHMIÚ), 2011 CENTRAL BANK (SUPERVISION AND ENFORCEMENT) BILL 2011

LEASUITHE COISTE COMMITTEE AMENDMENTS

SEANAD ÉIREANN

BILLE AN BHAINC CEANNAIS (MAOIRSIÚ AGUS FORFHEIDHMIÚ), 2011 —AN COISTE

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) BILL 2011 —COMMITTEE STAGE

Leasuithe Amendments

[*Government amendments are denoted by an asterisk.]

SECTION 1

*1. In page 9, subsection (2), line 25, to delete “9I” and substitute “93#”.

[#This is a reference to the section proposed to be inserted by amendment No. 27.]

SECTION 3

2. In page 10, subsection (1), line 28, to delete “regulated”.

—Senator Sean D. Barrett.

3. In page 10, subsection (1), line 30, to delete “regulated”.

—Senator Sean D. Barrett.

4. In page 10, subsection (1), line 33, to delete “regulated”.

—Senator Sean D. Barrett.

5. In page 11, subsection (2), line 29, to delete “regulated”.

—Senator Sean D. Barrett.

6. In page 11, subsection (2), line 31, to delete “regulated”.

—Senator Sean D. Barrett.

7. In page 11, subsection (2), line 32, after “time.” to insert the following:

“The terms “financial service provider” and “related undertaking” shall include auditors, accountants, pension fund trustees, building societies, debt collection agencies, moneylenders, and other financial services as determined by the Bank.”

—Senator Sean D. Barrett.

SECTION 8

8. In page 12, paragraph (a), line 29, to delete “regulated”.

—Senator Sean D. Barrett.

9. In page 12, paragraph (b), line 30, to delete “regulated”.

—Senator Sean D. Barrett.

SECTION 21

10. In page 17, subsection (1)(a), line 7, to delete “regulated”.

—Senator Sean D. Barrett.

[SECTION 21]

11. In page 17, subsection (1)(c), line 11, to delete “regulated”.

—*Senator Sean D. Barrett.*

12. In page 17, subsection (1)(c), line 13, to delete “regulated”.

—*Senator Sean D. Barrett.*

13. In page 17, subsection (1)(d), lines 16 and 17, to delete “in respect of which an authorisation is required”.

—*Senator Sean D. Barrett.*

SECTION 23

14. In page 19, subsection (1), line 1, after “records” to insert “, computer records, tapes and other recordings”.

—*Senator Sean D. Barrett.*

SECTION 35

15. In page 27, line 19, after “auditing.” to insert the following:

“The Bank shall conduct and publish research on standards for assurance and auditing and shall be the authority for stipulating and regulating such standards.”.

—*Senator Sean D. Barrett.*

SECTION 42

16. In page 33, between lines 9 and 10, to insert the following subsection:

“(4) The Bank shall publish in its Annual Report a statement of the employment status of persons reporting breaches and a statement of the reforms undertaken by the body in respect of which the report of breaches was made.”.

—*Senator Sean D. Barrett.*

SECTION 43

17. In page 33, subsection (3), line 36, after “exceed” to insert “triple”.

—*Senator Sean D. Barrett.*

SECTION 48

18. In page 38, subsection (1), line 17, to delete “regulated”.

—*Senator Sean D. Barrett.*

19. In page 38, subsection (2)(b), line 28, after “providers” to insert “and the auditors of financial service providers”.

—*Senator Sean D. Barrett.*

SECTION 49

20. In page 44, subsection (1), between lines 4 and 5, to insert the following:

“(c) in the case of the so-called pillar banks shall consult with the Competition Authority and the National Competitiveness Council on the impact of the proposed regulations on the non-banking economy.”.

—*Senator Sean D. Barrett.*

[SECTION 59]

SECTION 59

21. In page 49, between lines 39 and 40, to insert the following:

“ ‘debt collector’ means a person who for remuneration collects or seeks to collect consumer credit debt;”.

—*Senator Kathryn Reilly.*

22. In page 51, between lines 16 and 17, to insert the following:

“ ‘remuneration’, in relation to debt collection services, means any commission or other payment, whether paid directly or indirectly, in respect of the debt collection services and includes a payment made in respect of the provision of services other than debt collection services as a result of which debt collection services are provided otherwise than for payment;”.

—*Senator Kathryn Reilly.*

SECTION 68

23. In page 55, line 38, to delete “€10,000,000” and substitute “€50,000,000”.

—*Senator Sean D. Barrett.*

24. In page 56, line 7, to delete “€1,000,000” and substitute “€5,000,000”.

—*Senator Sean D. Barrett.*

SECTION 72

25. In page 59, between lines 12 and 13, to insert the following:

“(d) the responses of the financial service provider to complaints made under this section.”.

—*Senator Sean D. Barrett.*

SECTION 81

***26.** In page 67, lines 32 and 33, to delete subsection (7) and substitute the following:

“(7) Section 47 of the Act of 2011 is amended by substituting “If a liability to repay arises under section 46(5)” for “If a liability to repay the Fund or the Minister arises under section 46(4)”.

NEW SECTION

***27.** In page 71, after line 11, to insert the following new section:

“Amendment of section 6 of Irish Bank Resolution Corporation Act 2013.

93.—Section 6 of the Irish Bank Resolution Corporation Act 2013 is amended by inserting the following subsection after subsection (6):

“(7) (a) In this subsection ‘Act of 1879’ means the Bankers’ Books Evidence Act 1879.

(b) Where—

(i) a copy of an entry in a bankers’ book (within the meaning of section 9(2) of the Act of 1879) falls to be produced in evidence,

[*NEW SECTION*]

- (ii) the book is in the custody or under the control of a special liquidator or IBRC, and
 - (iii) the special liquidator or an officer or employee of, or other person duly authorised in that behalf by, the special liquidator or an officer or employee of IBRC gives evidence (orally or by affidavit) that—
 - (I) he or she truly believes that the book or record was kept in the ordinary course of the bank’s business, and
 - (II) the book is in the custody or under the control of the special liquidator or IBRC,
- then the requirement for proof in section 4 of the Act of 1879 shall be taken to have been satisfied.
- (c) The Act of 1879 has effect in relation to the books and records of IBRC as if—
- (i) references in that Act to bank or banker were to—
 - (I) a special liquidator, or
 - (II) IBRC,
 - (ii) references in that Act to bankers’ books were to the ordinary books and records of a special liquidator or IBRC, as the case may be, or the ordinary books and records of IBRC in the custody or under the control of a special liquidator, and
 - (iii) references in that Act to an officer of a bank were to a special liquidator or an officer or employee of, or other person duly authorised in that behalf by, a special liquidator or to an officer or employee of IBRC.”.

SCHEDULE 2

***28.** In page 75, between lines 11 and 12, to insert the following:

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7	Section 33AK (5)	Substitute “2010, or” for “2010.” in paragraph (ao) and insert the following after that paragraph: “(ap) 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 Central Bank and Credit Institutions (Resolution) Act 2011.”.
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***29.** In page 75, line 37, to delete “9I” and substitute “93#”.

[*#This is a reference to the section proposed to be inserted by amendment No. 27.*]