



**Bille na gCara-Chumann agus na gCumann Tionscail agus Soláthair (Forálacha
Ilghnéitheacha), 2013**

**Friendly Societies and Industrial and Provident Societies (Miscellaneous
Provisions) Bill 2013**

Mar a tionscnaíodh

As initiated



**BILLE NA gCARA-CHUMANN AGUS NA gCUMANN TIONSCAIL AGUS
SOLÁTHAIR (FORÁLACHA ILGHNÉITHEACHA), 2013
FRIENDLY SOCIETIES AND INDUSTRIAL AND PROVIDENT SOCIETIES
(MISCELLANEOUS PROVISIONS) BILL 2013**

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ACTS REFERRED TO

Building Societies Act 1989 (No. 17)
Central Bank Act 1971 (No. 24)
Companies (Amendment) Act 1990 (No. 27)
Companies Act 1990 (No. 33)
Friendly Societies (Amendment) Act 1977 (No. 17)
Friendly Societies Act 1896 (59 & 60 Vict., c. 25)
Friendly Societies Acts 1896 to 1977
Industrial and Provident Societies (Amendment) Act 1895 (58 & 59 Vict., c.30)
Industrial and Provident Societies (Amendment) Act 1913 (3 & 4 Geo. 5, c.31)
Industrial and Provident Societies (Amendment) Act 1978 (No. 23)
Industrial and Provident Societies Act 1893 (56 & 57 Vict., c.39)
Industrial and Provident Societies Acts 1893 to 1978
Insurance Act 1989 (No. 3)
Interpretation Act 2005 (No. 23)
Investment Funds, Companies and Miscellaneous Provisions Act 2005 (No. 12)
Investment Limited Partnerships Act 1994 (No. 24)
Local Government Act 2001 (No. 37)
Unit Trusts Act 1990 (No. 37)



**BILLE NA gCARA-CHUMANN AGUS NA gCUMANN TIONSCAIL AGUS
SOLÁTHAIR (FORÁLACHA ILGHNÉITHEACHA), 2013
FRIENDLY SOCIETIES AND INDUSTRIAL AND PROVIDENT SOCIETIES
(MISCELLANEOUS PROVISIONS) BILL 2013**

Bill

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entitled

An Act to amend the law relating to Friendly Societies; to amend the law relating to Industrial and Provident Societies; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

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PRELIMINARY AND GENERAL

Short title, collective citations, construction and commencement

1. (1) This Act may be cited as the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2013.
- (2) The Friendly Societies Acts 1896 to 1977 and *Part 2* may be cited together as the Friendly Societies Acts 1896 to 2013 and shall be read together as one. 15
- (3) The Industrial and Provident Societies Acts 1893 to 1978 and *Parts 3* and *4* may be cited together as the Industrial and Provident Societies Acts 1893 to 2013 and shall be read together as one.
- (4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or different provisions. 20

Definition

2. In this Act “Minister” means the Minister for Jobs, Enterprise and Innovation. 25

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

FRIENDLY SOCIETIES

Definition

4. In this Part “Act of 1896” means the Friendly Societies Act 1896.

Cessation of registration of new societies under Act of 1896

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5. The Act of 1896 is amended by the insertion of the following section after section 8A (inserted by section 28 of the Insurance Act 1989):

“Cessation of registration of new societies

- 8B. (1) Notwithstanding sections 8 and 8A, and subject to subsection (2), no society shall be registered under this Act after the date (in this section referred to as ‘the operative date’) of the coming into operation of *section 5 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2013*. 10
- (2) The amendment effected by subsection (1) shall not apply where an application for registration of a society has been received by the registrar before the operative date.”. 15

Cessation of formation of new separate loan funds

6. The Act of 1896 is amended by the insertion of the following section after section 46:

“Cessation of formation of new separate loan funds

- 46A. (1) Notwithstanding section 46, and subject to subsection (2), a registered society shall not, after the date (in this section referred to as ‘the operative date’) of the coming into operation of *section 6 of the Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2013*, form a separate loan fund under the said section 46. 20 25
- (2) The amendment effected by subsection (1) shall not apply where—
- (a) a registered friendly society has formed a separate loan fund under the said section 46, and
- (b) an application to register the necessary rule change has been received by the registrar, 30
- before the operative date.”.

Amendment of section 77 of Act of 1896

7. Section 77 of the Act of 1896 is amended by the substitution of the following subsections for subsections (1) and (2):

- “(1) The registrar may cancel the registry of a society— 35
- (a) if he thinks fit, at the request of the society, to be evidenced in such

manner as he may direct, or

- (b) on proof to his satisfaction that an acknowledgment of registry has been obtained by fraud or mistake, or that a society exists for an illegal purpose, or has wilfully and after notice from the registrar violated any of the provisions of this Act, or has ceased to exist. 5

- (2) The registrar, in any case in which he might cancel the registry of a society, may suspend the registry for any term not exceeding 3 months, and may renew the suspension for the like period.”.

Performance of duties of registrar of friendly societies

- 8. Section 5 of the Friendly Societies (Amendment) Act 1977 is amended by the substitution of the following subsection for subsection (4): 10

“(4) The powers, functions and duties of the registrar of friendly societies may be exercised and performed by such person or persons as the Minister may for the time being authorise.”.

PART 3

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INDUSTRIAL AND PROVIDENT SOCIETIES

Definitions

- 9. In this Part—

“Act of 1893” means the Industrial and Provident Societies Act 1893;

“Act of 1913” means the Industrial and Provident Societies (Amendment) Act 1913; 20

“Act of 2005” means the Investment Funds, Companies and Miscellaneous Provisions Act 2005.

Amendment of Act of 1893

- 10. The Act of 1893 is amended—

- (a) in section 4 (amended by section 85(a) of the Act of 2005), by the substitution of the following paragraph for paragraph (a): 25

“(a) No member other than a registered society shall have or claim any interest in the shares of the society exceeding €150,000 or an amount equal to 1 per cent of the total assets of the society, whichever is the greater, except where otherwise specified in the rules of the society, and”, 30

- (b) in section 7, by the substitution of the following subsections for subsection (1) (substituted by section 3 of the Industrial and Provident Societies (Amendment) Act 1895):

“(1) If the registrar refuses to register a society, or any rules or amendment of rules of a society, the society may appeal from such refusal to the 35

Circuit Court.

(1A) The jurisdiction conferred on the Circuit Court under subsection (1) may—

(a) as respects a refusal to register the society, be exercised by the judge of the court for the time being assigned to the Dublin Circuit, and 5

(b) as respects a refusal to register any rules or amendment of rules, be exercised by the judge of the circuit in which the registered office of the society is situated.”,

(c) in section 9— 10

(i) in subsection (1)—

(I) by the substitution of “in writing:” for “by writing under his hand or seal:”, and

(II) in paragraph (c), by the substitution of “On proof” for “With the approval of the Treasury, on proof”, 15

and

(ii) in subsection (2)—

(I) by the deletion of “, with the approval of the Treasury,” in both places where it occurs, and

(II) by the substitution of “in writing:” for “by writing under his hand or seal:”, 20

(d) in section 10, by the substitution of the following subsection for subsection (4):

“(4) A copy of the rules of a registered society shall be furnished by the society to any member who demands it, on payment of such fee as may be determined by the society in its rules.”, 25

(e) in section 14—

(i) by the substitution of the following subsection for subsection (1):

“(1) Every registered society shall once in every year send to the registrar an annual return of the receipts, expenditure, funds and effects of the society as audited.”, 30

and

(ii) by the substitution of the following paragraph for paragraph (c) (substituted by section 3(1) of the Act of 1913) of subsection (2):

“(c) shall be submitted no later than—

(i) 31 October, where the date of its last published balance sheet falls between 1 January and 30 June, and 35

(ii) 30 April, where the date of its last published balance sheet falls between 1 July and 31 December (of the preceding year);

and”,

(f) in section 17—

(i) in subsection (2), by the insertion of “and their holdings in the society, whether in shares or loans,” after “the names of the members”, and

(ii) by the deletion of subsection (3), 5

(g) by the insertion of the following new section after section 17:

“Inspection of books by non-members

17A. (1) Any person shall be allowed to inspect the books of a registered society containing the names of the members, and their holdings in shares, at all reasonable hours at the registered office of the society, or at any place where the same are kept, subject to such regulations as to the time and manner of such inspection as may be made from time to time by the general meetings of the society, on payment of €10, or such lesser sum as the society may prescribe, for each inspection. 10

(2) Any person may require a copy of the books mentioned in subsection (1), or of any part thereof, on payment of €10, or such lesser sum as the society may prescribe. 15

(3) The society shall cause any copy so required by any person to be sent to that person within a period of 10 days commencing on the day next after the day on which the requirement is received by the society. 20

(4) In the case of any refusal or default, the court may by order compel an immediate inspection of the books or direct that the copies required shall be sent to the persons requiring them.”,

and

(h) in Schedule II, by the substitution of the following paragraph for paragraph 5: 25

“5. Determination of the amount of interest in the shares of the society which any member may hold.”.

Repeal of section 4 of Act of 1913

11. Section 4 of the Act of 1913 is repealed.

Amendment of section 6 of Industrial and Provident Societies (Amendment) Act 1978 30

12. Section 6 of the Industrial and Provident Societies (Amendment) Act 1978 is amended—

(a) in subsection (1), by the substitution of “€30,000” for “£10,000”,

(b) in subsection (4), by the insertion of “to the acceptance by a registered society of any monies advanced by a public body,” after “bank,”, and

(c) by the insertion of the following new subsections after subsection (4): 35

“(5) In this section ‘public body’ means—

(a) a Minister of the Government or a Department of State,

- (b) a local authority, within the meaning of the Local Government Act 2001,
 - (c) a body established by any enactment (other than the Companies Acts), or
 - (d) a body established under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government.
- (6) In subsection (5) ‘enactment’ has the meaning given to it by section 2 of the Interpretation Act 2005.”.

PART 4

APPLICATION OF ACT OF 1990 TO INDUSTRIAL AND PROVIDENT SOCIETIES

Definition

13. In this Part “Act of 1990” means the Companies (Amendment) Act 1990.

Application of Act of 1990 to industrial and provident societies

- 14.** (1) For the purposes of this Part, the Act of 1990, and any other provision in the Companies Acts referred to in that Act, shall apply to a registered industrial and provident society as it applies to a company, subject to—
- (a) the modification that it shall be read as if sections 6A and 36A were deleted,
 - (b) the modifications, made for the purposes of this Part, to the wording of those sections that are referred to in *sections 16 to 23*, and
 - (c) any other necessary modifications.
- (2) A reference (including in a modification referred to in *paragraph (b) of subsection (1)*) in this Part to—
- (a) a society is to a registered society, and
 - (b) a registered society is to a registered industrial and provident society.

Construction of references in Act of 1990

- 15.** For the purposes of this Part, unless the context otherwise requires, a reference in the Act of 1990 to—
- (a) a board of directors shall be construed as a reference to a committee of management or other directing body of a registered society,
 - (b) a company shall be construed as including a reference to a registered society,
 - (c) a director shall be construed as a reference to a member of the committee of

management or other directing body of a registered society,

- (d) the memorandum of association or the articles of association of a company shall be construed as a reference to the rules of a registered society,
- (e) the registrar of companies or the registrar shall be construed as a reference to the registrar of friendly societies, 5
- (f) equity share capital or issued share capital shall be construed as a reference to shares in a registered society,
- (g) a related company shall be construed as including a reference to a related registered society.

Application of section 3 of Act of 1990

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16. Section 3 of the Act of 1990 applies subject to—

- (a) the substitution of the following subsections for subsections (1) and (2):

“(1) Subject to subsection (2), a petition under section 2 may be presented by—

- (a) the society, 15
- (b) the board of management or other directing body of the society,
- (c) a creditor, or contingent or prospective creditor (including an employee), of the society, or
- (d) not less than one tenth of the total number of members of the society, or, where the society has more than 1,000 members, not less than 100 members of the society, 20

or by all or any of those parties, together or separately.

- (2) (a) Where the society referred to in section 2 is an insurer, a petition under that section may be presented only by the Central Bank, and subsection (1) shall not apply to the society. 25

- (b) Where the society referred to in section 2 is the holder of a licence under section 9 of the Central Bank Act 1971, a petition under section 2 may be presented only by the Central Bank, and subsection (1) shall not apply to the society.

- (c) Where the society referred to in section 2 is a society that is— 30

- (i) an authorised investment firm within the meaning of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007),
- (ii) an associated undertaking or a related undertaking, of an authorised investment firm or an authorised market operator, within the meaning of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007), 35
- (iii) engaged in the business of accepting deposits or other repayable funds or granting credit for its own account,

- (iv) an associated body of a building society within the meaning of the Building Societies Act 1989,
 - (v) an associated enterprise of a credit institution within the meaning of the European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992 (S.I. No. 396 of 1992), 5
 - (vi) a management company or trustee of a unit trust scheme within the meaning of the Unit Trusts Act 1990,
 - (vii) a general partner or custodian of an investment limited partnership within the meaning of the Investment Limited Partnerships Act 1994, 10
 - (viii) an undertaking with close links with a financial undertaking within the meaning of the Supervision of Credit Institutions, Stock Exchange Member Firms and Investment Business Firms Regulations 1996 (S.I. No. 267 of 1996), 15
 - (ix) carrying on business which is required, by virtue of any enactment (within the meaning given to it by section 2 of the Interpretation Act 2005), to be authorised by the Central Bank,
- a petition under section 2 may be presented by—
- (I) any of the persons referred to in paragraph (a), (b), (c) or (d) of subsection (1) (including by one or more of such persons acting together), 20
 - (II) the Central Bank, or
 - (III) one or more of the persons referred to in subparagraph (I) and the Central Bank acting together. 25
- (d) If the Central Bank does not present such a petition—
- (i) the petitioner shall, before he presents the petition at the office of the court, cause to be received by the Central Bank a notice in writing of his intention to present the petition, and shall serve a copy of the petition on the Central Bank as soon as may be after the presentation of it at the said office, and 30
 - (ii) the Central Bank shall be entitled to appear and be heard at any hearing relating to the petition.”,
- and
- (b) in subsection (3B)— 35
- (i) in paragraph (b), by the substitution of “are also directors, or members of the committee of management or other directing body” for “are also directors”, and
 - (ii) by the deletion of paragraph (i).

Application of section 3C of Act of 1990

17. Section 3C of the Act of 1990 applies subject to the substitution of the following subsection for subsection (4):

“(4) If the society concerned is a society referred to in section 3(2)(c) (as modified by the *Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2013*) and the Central Bank (whether alone or acting together with other persons) has not presented, and does not propose to present, a petition under section 2 in relation to the society, the independent accountant shall, as soon as may be after it is prepared, supply a copy of the report prepared by him under section 3(3A) to the Central Bank and subsections (2) and (3) shall not apply to such a copy.”.

Application of section 5 of Act of 1990

18. Section 5 of the Act of 1990 applies subject to—

- (a) the deletion of paragraph (g) (inserted by section 180(1)(b) of the Companies Act 1990) of subsection (2), and
- (b) the deletion of subsection (4).

Application of sections 7, 18 and 24 of Act of 1990

19. Sections 7, 18 and 24 of the Act of 1990 apply subject to the substitution of “*the Industrial and Provident Societies Acts 1893 to 2013*” for “the Companies Acts” wherever it occurs in those sections.

Application of section 8 of Act of 1990

20. Section 8 of the Act of 1990 applies subject to the deletion, in subsection (3), of “, and any present or past shadow director”.

Application of section 11 of Act of 1990

21. Section 11 of the Act of 1990 applies subject to the deletion of subsection (7).

Application of section 12 of Act of 1990

22. Section 12 of the Act of 1990 applies subject to—

- (a) the substitution of “(under the Companies (Amendment) Act 1990 as applied by the *Friendly Societies and Industrial and Provident Societies (Miscellaneous Provisions) Act 2013*)” for “(under the Companies (Amendment) Act, 1990)”, and
- (b) the deletion of subsection (5).

Application of sections 28 and 30 of Act of 1990

23. Sections 28 and 30 of the Act of 1990 apply subject to the deletion of subsection (2) in each section.

Offences

24. (1) Where an offence is committed under the relevant section of the Act of 1990 as applied by this Act (in this section referred to as “the Act”) referred to in paragraph (a), (b), (c) or (d), the following provisions shall apply:
- (a) an examiner who without reasonable excuse fails to comply with subsection (6) of section 11 of the Act shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine; 5
 - (b) a person who fails to comply with section 12 of the Act shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine;
 - (c) a person who acts as an examiner of a registered society while disqualified under section 28 of the Act shall be guilty of an offence and shall be liable— 10
 - (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or to both, and
 - (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years, or to both; 15
 - (d) where a person fails to comply with section 30 of the Act, that person, and, where that person is a registered society, the registered society and any officer of it who is in default, shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine.
- (2) The Court in which a conviction for an offence under this Act is recorded or affirmed may order that the person convicted shall remedy the breach of this Act in respect of which that person was convicted. 20
- (3) Summary proceedings for an offence under this section may be brought and prosecuted by the registrar of friendly societies.

Bille na gCara-Chumann agus na gCumann
Tionscail agus Soláthair (Forálacha
Ilghnéitheacha), 2013

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an dlí a bhaineann le Cara-Chumann;
do leasú an dlí a bhaineann le Cumann
Tionscail agus Soláthair; agus do dhéanamh
socrú i dtaobh nithe gaolmhara.

*An Seanadóir Muiris Ó Cuimín a thíolaic thar ceann
an Aire Post, Fiontar agus Nuálaíochta,*

23 Iúil, 2013

Friendly Societies and Industrial and
Provident Societies (Miscellaneous
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BILL

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An Act to amend the law relating to Friendly
Societies; to amend the law relating to Industrial
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*Presented by Senator Maurice Cummins on behalf
of the Minister for Jobs, Enterprise and Innovation,*

23rd July, 2013

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
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