



An Bille Airgeadais (Forálacha Ilghnéitheacha), 2015
Finance (Miscellaneous Provisions) Bill 2015

Meabhrán Mínitheach
Explanatory Memorandum



**AN BILLE AIRGEADAIS
(FORÁLACHA ILGHNÉITHEACHA), 2015
FINANCE (MISCELLANEOUS PROVISIONS) BILL 2015**

EXPLANATORY MEMORANDUM

Purpose of Bill

The purpose of the Bill is fourfold:

- (i) To enable the ratification of the Intergovernmental Agreement (IGA) to the Single Resolution Mechanism (SRM). This is necessary in order to operationalise the SRM. There is a requirement to have the documentation associated with the ratification lodged with the EU by 30 November of this year.
- (ii) To make amendments to the Financial Services (Deposit Guarantee Scheme) Act 2009 – in order to put in place a transitional funding arrangement for the new DGS contributory scheme and to provide a means for the Exchequer to recoup the Central Bank where it contributes its own resources towards a DGS compensation event. This is necessary to avoid the ECB engaging in monetary financing of the State.
- (iii) To put in place Insurance (Continuation of Regulation) legislation in order to ensure the continuation of insurance regulation for companies outside the scope of Solvency II which is due to come into force at the start of 2016.
- (iv) To make a technical amendment to the National Treasury Management Agency (Amendment) Act 2014 in order to remove any potential ambiguity with regard to whether a “directed investment” made by the National Pension Reserve Fund Commission and subsequently transferred to the Irish Strategic Investment Fund pursuant to the NTMA Amendment Act 2014 remains a “directed investment” for the purposes of that Act.

Part 1

Preliminary and General

Section 1 – Short title, collective citation, construction and commencement

This is a standard provision giving the title of the Bill and when it will come into effect. It also provides that the Insurance Acts 1909 to 2009 and Part 4 of the Bill shall be construed together as one Act.

Section 2 – Definition

This section contains a definition used throughout the Bill.

Part 2

Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund

Section 3 – Interpretation (Part 2)

This section contains an explanation of particular terms used in this part of the Bill.

Section 4 – Minister may perform functions for purposes of Agreement

The purpose of this provision is to allow the Minister to carry out all such things as are necessary and expedient for the purpose of the State performing its functions under the Agreement, in particular the functions specified in subsection (2).

Section 5 – Defrayal of certain expenses

This is a standard provision which indicates that any expenses incurred by the Minister under section 4 shall be paid out of the Central Fund.

Part 3

Deposit Guarantee Scheme

Section 6 – Interpretation

This section contains an explanation of a term used in this part of the Bill.

Section 7 – Amendment of section 1 of Act of 2009

This section inserts a number of new definitions into section 1 of the Financial Services (Deposit Guarantee Scheme) Act 2009.

Section 8 – Amendment of section 3 of Act of 2009

This section amends section 3 of the Financial Services (Deposit Guarantee Scheme) Act 2009 by providing for the establishment by the Central Bank of a new “*legacy fund*” consisting of funds transferred from the Deposit Protection Account (DPA) to the amount of 0.2% of covered deposits. It also provides that the balance of the funds in the DPA should be returned to credit institutions, and specifies when the legacy fund shall cease to operate.

Section 9 – Amount to be maintained in deposit protection account

This section amends the Financial Services (Deposit Guarantee Scheme) Act 2009, by replacing the existing section 4. It provides that a credit institution shall not carry out the business of such a body unless it has transferred 0.2% of covered deposits from the DPA to the legacy fund on a date determined by the Central Bank.

Section 10 – Order of payments

This section provides for the insertion of two new sections (5A and 5B) into the Financial Services (Deposit Guarantee Scheme) Act 2009. The purpose of 5A is to set out the order of payments in the event of a DGS compensation event arising, to provide a provision to ensure a level playing field between existing credit institutions and new entrants to the market, and to provide that the amount a credit institution holds in the legacy fund is reduced on a yearly basis by its annual contribution to the contributory fund. The purpose of 5B is to provide a basis for the return of legacy fund deposits (where there is any remaining) after 3 years to a credit institution which has ceased to carry on business.

Section 11 – Charges, etc., on deposit protection account

This section amends the Financial Services (Deposit Guarantee Scheme) Act 2009, by replacing the existing section 6. It provides that any deposits by credit institutions in the legacy fund are protected from charges being placed upon them other than by the Central Bank.

Section 12 – Reimbursement from Central Fund of certain payments by Bank

This section amends the Financial Services (Deposit Guarantee Scheme) Act 2009, by replacing the existing section 8. The purpose of this provision is to allow the Central Fund with the approval of the Minister to recoup the Central Bank for any payments it is required to make out of its own funds in order to finance the cost of a DGS compensation event. This provision is necessary in order to prevent the ECB engaging in monetary financing of the State.

Section 13 – Compensation events

This section provides for the insertion of a new section (8E) into the Financial Services (Deposit Guarantee Scheme) Act 2009. Its purpose is to provide for the return of any money recovered by the DPA to credit institutions after the coming into force of this Bill.

Section 14 – Repeals

This section provides for the repeal of a number of sections in the Financial Services (Deposit Guarantee Scheme) Act 2009.

Part 4

Continuation of Insurance Regulations

Section 15 - Definitions and application

This section sets out the definitions in this part of the Bill including the definition of a ‘relevant undertaking’ to which this part of the Bill applies.

Section 16 - Continuation of certain Regulations

The Solvency II Directive repeals a number of EU Directives relating to insurance and reinsurance. This section continues in force the Regulations transposing those repealed Directives in respect of (re)insurers excluded from the application of Solvency II.

Section 17 - Portfolio Transfers

The decision has been taken that, to ensure continuity and ease of reference, Article 39 of the Solvency II Directive, as transposed in the European Communities (Insurance and Reinsurance) Regulations 2015, will govern portfolio transfers for all undertakings.

Section 18 - Amendments to Part IIIA of Act of 1989

The transposition of the Solvency II Directive necessitated a certain number of changes to Part IIIA of the Insurance Act of 1989. It was considered best to make these changes via this Bill as such changes will govern undertakings covered by this Bill also. Part IIIA of the Act of 1989 deals with provision of information to policy-holders.

Section 19 - Amendments and revocations

A number of amendments to existing insurance legislation as well as revocation of the unnecessary elements of the continuing regulations are covered in this section and also in the Schedule to the Bill.

Section 20 - Savers and transitional provisions

This section provides that certain actions undertaken by the Central Bank of Ireland under a provision being amended, repealed or revoked by the Bill before the commencement of the relevant amendments and

revocations in this Bill will continue to be valid following the amendment or revocation.

Part 5

Amendment of National Treasury Management Agency (Amendment) Act 2014

Section 21 –Amendment of section 37 of National Treasury Management Agency (Amendment) Act 2014

This is a technical amendment which removes any potential ambiguity with regard to whether a “directed investment” made by the National Pension Reserve Fund Commission and subsequently transferred to the Irish Strategic Investment Fund pursuant to the National Treasury Management Agency (Amendment) Act 2014 remains a “directed investment” for the purposes of that Act.

Schedule

The Schedule lists all the revocations to be carried out as mentioned in section 19 of the Bill.

*An Roinn Airgeadais,
Deireadh Fomhair, 2015.*