



An Bille Árachais (Srian le Praghsáil Dhifreálach agus Próifiliú), 2021
Insurance (Restriction on Differential Pricing and Profiling) Bill 2021

Mar a tionscnaíodh

As initiated



**AN BILLE ÁRACHAIS (SRIAN LE PRAGHSÁIL DHIFREÁLACH AGUS
PRÓIFÍLIÚ), 2021
INSURANCE (RESTRICTION ON DIFFERENTIAL PRICING AND PROFILING)
BILL 2021**

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ACTS REFERRED TO:

Insurance Act 1936 (No. 45)

Companies Act 2014 (No. 38)

Health Insurance (Miscellaneous Provisions) Act 2009 (No. 24)

Consumer Insurance Contracts Act 2019 (No. 53)

Central Bank Act 1942 (No. 22)



**AN BILLE ÁRACHAIS (SRIAN LE PRAGHSÁIL DHIFREÁLACH AGUS
PRÓIFÍLIÚ), 2021
INSURANCE (RESTRICTION ON DIFFERENTIAL PRICING AND PROFILING)
BILL 2021**

Bill

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entitled

An Act to prohibit the discriminatory pricing of certain insurance premiums payable by certain persons to the extent that such pricing is on the basis that any such person is a pre-existing customer of an insurance provider, to prohibit the use of profiling techniques in the calculation of such insurance premiums to determine whether or not such customer or class of customers are likely, or the extent to which any such customer is likely, to renew the policy concerned, to restrict the use of such profiling techniques by insurance providers in respect of new or potential customers and to provide for related matters. 10

Be it enacted by the Oireachtas as follows: 15

Definitions

1. In this Act—

“Act of 1936” means the Insurance Act 1936;

“Act of 2014” means the Companies Act 2014;

“Bank” means the Central Bank of Ireland; 20

“consumer”, in relation to a contract for insurance, means—

(a) a natural person, not acting in the course of business,

(b) a sole trader, partnership, trust club or charity (not being a body corporate), with an annual turnover in its previous financial year (within the meaning of section 288 of the Act of 2014) not exceeding €3,000,000, or 25

(c) an incorporated body that—

(i) had an annual turnover in its previous financial year (within the meaning of section 288 of the Act of 2014) not exceeding €3,000,000, and

(ii) is not a member of a group of companies (within the meaning of section 8 of the Act of 2014) with a combined annual turnover, for the purposes of the previous financial year end date (within the meaning of section 288 of the Act of 2014) of the group of companies, that exceed €3,000,000, 30

and that—

- (I) is a home insurance customer or motor insurance customer of an insurance provider,
- (II) is a person or body to whom an insurance provider has offered to provide home insurance or motor insurance coverage, or
- (III) has sought the provision of home insurance or motor insurance from an insurance provider;

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“contract of insurance”, in so far as it relates to a contract made between an insurance provider and a consumer, means, a contract of non-life insurance or a contract of life insurance (and a reference to “insurance” shall be read accordingly);

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“customer”, in relation to an insurance provider, means—

- (a) any person to whom the insurance provider provides or offers a contract of insurance,
- (b) any person who requests the provision of a contract of insurance from the insurance provider,

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and includes a potential customer and a former customer;

“differential pricing”, in relation to insurance premiums, means a circumstance or practice whereby customers with a similar risk and cost of service are charged different premiums, for reasons other than risk and cost of service;

“insurance provider” means an insurance undertaking, within the meaning of, as appropriate, Regulation 3 of the Regulations of 2015, Regulation 2 of the Regulations of 1994 or Regulation 2 of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);

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“life insurance” has the meaning given to it by Regulation 3 of the Regulations of 2015;

“Minister” means the Minister for Finance;

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“motor insurance” means insurance of classes 3 (excluding land vehicles other than motor vehicles), and 10 (excluding carrier’s liability) as specified in either of the following:

- (a) Part 1 of Schedule 1 to the Regulations of 2015;
- (b) Part A of Annex I to the Regulations of 1994;

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“non-life insurance” has the meaning given to it by Regulation 3 of the Regulations of 2015;

“policy” means any document or other writing by which a contract of insurance is made or agreed to be made or which is evidence of any such contract;

“premium” has the meaning assigned to it by section 3 (as amended by the Health Insurance (Miscellaneous Provisions) Act 2009) of the Act of 1936;

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“rating factor” means any factor that is considered in the process of calculating the premium paid by a consumer for a contract of insurance;

“Regulations of 1994” means the European Communities (Non-Life Insurance)

Framework Regulations 1994 (S.I. No. 359 of 1994);

“Regulations of 2015” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015).

Application

2. This Act applies— 5
- (a) to contracts for motor insurance or for home insurance entered into on or after the commencement of this section, and
 - (b) in the case of contracts for motor insurance or for home insurance entered into before such commencement, to renewals of such contracts on or after such commencement. 10

Restriction on differential pricing and profiling by insurance providers

3. (1) (a) For the purposes of a contract of insurance that relates to home insurance or motor insurance, an insurance provider shall not use differential pricing in calculating the premium and, for that purpose— 15
- (i) shall only apply rating factors directly linked to the risk to be insured,
 - (ii) shall not adjust the calculation of a premium using any factors unrelated to risk other than for the addition of business expenses, and
 - (iii) shall not use different rating factors to calculate new or renewal premiums or to calculate new premiums.
- (b) In this subsection, “business expenses” means the expenses incurred by an insurance undertaking in acquiring and providing— 20
- (i) relevant classes of non-life insurance business, and
 - (ii) in so far as it may relate to non-life insurance business to which *paragraph (a)* applies, any life insurance business that is in the nature of being ancillary or supplemental to non-life insurance business. 25
- (2) Where an insurance provider has outsourced directly, or indirectly through sub outsourcing, the performance of any process, service or activity to which this Act relates to another person (in this subsection referred to as a “service provider”), the insurance provider shall ensure that this Act is complied with by each service provider concerned. 30
- (3) Any fee or other monetary consideration duly payable—
- (a) by a consumer to a third party for assisting with or facilitating a contract of insurance between the consumer and an insurance provider, or
 - (b) by an insurance provider to such a third party,
- shall, for the purposes of this section, be deemed to be part of the premium payable to which this section relates. 35

Provision of information

4. (1) Within a reasonable time after concluding a contract of insurance or when inviting a renewal of a contract of insurance, the insurer shall provide the particulars of any rating factor applicable and of any additional amount payable by reason of it to the consumer on paper or another durable medium with the completed application or proposal form or with the notification of renewal. 5
- (2) In this section, “durable medium” means any instrument that enables a recipient to store information addressed personally to the recipient in a way that renders it accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored. 10

Regulations and codes of practice

5. (1) The Bank may make regulations—
- (a) providing the criteria to be taken into account by insurance providers to determine whether a rating factor has a direct link to the risk in order to comply with *section 3*, 15
 - (b) specifying the form in which the information required in *section 4* is to be provided, and
 - (c) for the proper and effective regulation of the obligations set out in *sections 3* and *4*.
- (2) The Bank may issue a code of practice concerning any requirements provided for by in this Act. 20
- (3) A code of practice, made under any enactment or instrument under an enactment, which contains practical guidance that would assist a court or other adjudicatory body, such as the Financial Services and Pensions Ombudsman, in determining any issue before it in connection with a contract of insurance to which this Act applies, shall be admissible for that purpose and may be taken into account. 25

Annual report by Bank

6. (1) The Bank shall, from time to time and at least once a year following the year in which this section is commenced, present a report to the Minister (in this section referred to as the annual report) assessing the compliance by insurance providers with the provisions of this Act and with the Code of Conduct referred to in *section 5(2)*. The Minister shall as soon as practicable thereafter cause a copy of that report to be laid before each House of the Oireachtas. 30
- (2) Without prejudice to the generality of *subsection (1)*, the annual report shall contain such advice or recommendations, as the Bank considers necessary or appropriate, to ensure compliance with the provisions of this Act. 35
- (3) If the Minister does not accept any recommendation of the Bank in the annual report, the Minister shall within one month of being presented with it prepare and lay before each House of the Oireachtas a statement of the Minister’s reasons for not accepting it.

Amendment of Schedule 2 to Central Bank Act 1942

7. Schedule 2 to the Central Bank Act 1942 is amended in Part 1 by inserting the following after Item 47 (inserted by section 3 of the Consumer Insurance Contracts Act 2019):

“

No. 48	No. __ of 2021	<i>Insurance (Restriction on Differential Pricing and Profiling) Act 2021</i>	Sections 3 and 4	5
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Short title and commencement

8. (1) This Act may be cited as the Insurance (Restriction on Differential Pricing and Profiling) Act 2021. 10
- (2) This Act comes into operation four months after the date of its passing or on such earlier date or dates than the said four months as the Minister may by order appoint and different dates may be so appointed for different purposes and different provisions. 15

An Bille Árachais (Srian le Praghsáil
Dhifreálach agus Próifiliú), 2021

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do thoirmeasc praghsáil idirdhealaitheach a dhéanamh ar phréimheanna árachais áirithe is iníoctha ag daoine áirithe a mhéid gur ar an mbonn gur custaiméir a bheidh ann cheana de chuid soláthraí árachais aon duine den sórt sin, do thoirmeasc teicnícíochtaí próifilithe a úsáid le linn préimheanna den sórt sin a ríomh d'fhonn a chinneadh cibé acu is dóigh nó nach dóigh, nó a mhéid is dóigh, go ndéanfaidh custaiméir den sórt sin, nó aicme custaiméirí den sórt sin, an polasaí lena mbaineann a athnuachan, do chur srian le húsáid teicnícíochtaí próifilithe den sórt sin ag soláthraithe árachais i leith custaiméirí nua nó ionchasacha agus do dhéanamh socrú maidir le nithe gaolmhara.

An Teachta Piaras Ó Dochartaigh a thug isteach,
12 Eanáir, 2021

Insurance (Restriction on Differential Pricing
and Profiling) Bill 2021

BILL

(as initiated)

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An Act to prohibit the discriminatory pricing of certain insurance premiums payable by certain persons to the extent that such pricing is on the basis that any such person is a pre-existing customer of an insurance provider, to prohibit the use of profiling techniques in the calculation of such insurance premiums to determine whether or not such customer or class of customers are likely, or the extent to which any such customer is likely, to renew the policy concerned, to restrict the use of such profiling techniques by insurance providers in respect of new or potential customers and to provide for related matters.

Introduced by Deputy Pearse Doherty,
12th January, 2021