An Bille um Dhífheistiú Breosla Iontaise, 2016
Fossil Fuel Divestment Bill 2016

Meabhrán Mínitheach
Explanatory Memorandum

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FOSSIL FUEL DIVESTMENT BILL 2016

EXPLANATORY MEMORANDUM

Purpose of the Bill

The primary purpose of the Fossil Fuel Divestment Bill 2016 is to create an offence in relation to investment by the National Treasury Management Agency, through its management of the Ireland Strategic Investment Fund (ISIF) (formerly the National Pension Reserve Fund) of its assets in fossil fuel companies, in light of the urgency to phase out fossil fuel exploration, extraction and combustion in a timely manner to enable delivery of the commitment adopted in the Paris Agreement under the United Nations Framework Convention on Climate Change.

The Fund's current mandate is to invest on a commercial basis to support economic activity and employment in Ireland. The National Treasury Management Agency (Amendment) Act 2014 is amended to refine that mandate, instructing the ISIF to divest itself of current fossil fuel assets and prohibiting any investments in fossil fuel companies in the future.

Instructing the ISIF to carry out fossil fuel divestment is a substantive move towards combating climate change but also a symbolic act to precipitate a timely decarbonisation process, while maintaining that investment of public funds is done so in a financially sustainable manner.

Ireland can be a leading contributor to the global response to the threat of climate change by engaging on multiple fronts. Article 2 of the Paris Agreement includes a commitment by states to make finance flows consistent with action on climate change. This Act initiates a response to this commitment, through a series of amendments to the Principal Act, the National Treasury Management Agency (Amendment) Act 2014, as described in detail below.

Provisions of the Bill

Section 1

Section 1(a) of this Bill inserts a definition in section 37 of the National Treasury Management Agency (Amendment) Act 2014 for fossil fuel company. The definition provided uses the term "geological deposit", to enable a distinction to be made with biofuels and other alternative hydrocarbon energy sources. Bioenergy can be considered renewable only when it meets strict sustainability criteria.

Section 1(b) amends section 39 of the National Treasury Management Agency (Amendment) Act 2014 by adding subsections after subsection (6).

Subsection (7) accommodates future amendments of section 39 or other laws that may apply to the Agency now or in the future. This language borrows from the Cluster Munitions and Anti-Personnel Mines Act 2008.

Subsection (8) obliges the Agency to endeavour to ensure that the assets of the Fund are not invested, directly or indirectly, in fossil fuel companies. Therefore while the Agency's current investments in fossil fuel companies are not illegal upon commencement of this subsection, there is an obligation on the Agency to pursue divestment of current investments in fossil fuel companies, and to avoid future investments in fossil fuel companies.

Subsection (9) obliges the Agency to divest the assets of the Fund from current investments in fossil fuel companies, direct or indirect, within five years of the commencement of this subsection.

Section 2

This section details the title to the Bill.

Deputy Thomas Pringle

Samhain, 2016.

Wt. —. 326. 11/16. Essentra. (62958). Gr. 30-15.