



**An Bille um an mBord um Athstruchtúrú Comhar
Creidmheasa (Díscaoileadh), 2019
Credit Union Restructuring Board (Dissolution)
Bill 2019**

*Meabhrán Mínitheach
Explanatory Memorandum*



**AN BILLE UM AN mBORD UM ATHSTRUCHTÚRÚ COMHAR
CREIDMHEASA (DÍSCAOILEADH), 2019
CREDIT UNION RESTRUCTURING BOARD (DISSOLUTION)
BILL 2019**

EXPLANATORY MEMORANDUM

Purposes of the Bill

The purposes of the Bill are:

- (a) to dissolve the Credit Union Restructuring Board,
- (b) to transfer certain functions of the Credit Union Restructuring Board to the Minister for Finance, and
- (c) to amend the Credit Union and Co-operation with Overseas Regulators Act 2012.

Provisions of the Bill

The Bill contains four Parts. The following paragraphs contain a brief description and an outline of the reforms proposed in each Part.

PART 1

PRELIMINARY AND GENERAL

Section 1 Short title, collective citation and commencement provides for the short title and the collective citation of the Act. Commencement provides for the commencement of the Act on such day or days as the Minister by order appoints. Different days may be fixed for the commencement of different provisions of the Act.

Section 2 Definitions provides for the defining of the Principal Act as the Credit Union and Co-operation with Overseas Regulators Act 2012 and for other interpretations.

Section 3 Expenses provides that the expenses incurred by the Minister in the administration of this Bill is to be paid out of moneys provided by the Oireachtas to such extent as permitted by the Minister for Public Expenditure and Reform.

Section 4 Repeal of certain provisions of the Act of 2012 provides for repeal of certain provisions of the Credit Union and Co-operation with Overseas Regulators Act 2012, which will be no longer relevant following dissolution of ReBo.

Section 5 Saver provides that Regulations made by ReBo under section 47 of the 2012 Act immediately before dissolution day shall continue in force on or after this day as if made by the Minister and may be amended

or revoked by the Minister, despite the repeal of subsection (1) of section 47 by section 4.

PART 2

DISSOLUTION OF CREDIT UNION RESTRUCTURING BOARD

This Part provides for the dissolution of ReBo with the transfer of all of its assets and liabilities over to the Minister together with the usual ancillary provisions.

Section 6 Dissolution of the Credit Union Restructuring Board provides that on dissolution day ReBo shall stand dissolved and that the Minister shall by order appoint a day to be the dissolution date for the purposes of the Act.

Section 7 Transfer of certain functions of the dissolved body to the Minister provides for certain functions of ReBo immediately before dissolution day are transferred to the Minister. These include certain functions in relation to the ReBo Levy, functions of Rebo as a relevant authority under the Public Service Pensions (Single Scheme and other Provisions) Act 2012 and references in any other enactment or instrument that relate to a function transferred to the Minister under this section. This section shall come into operation on dissolution day.

Section 8 Transfer of property provides that all property (other than land), including choses-in-action, vested in ReBo shall transfer to the Minister on dissolution day.

Section 9 Transfer of rights and liabilities provides that all rights and liabilities of ReBo arising by virtue of any contract or commitment entered into by it, shall transfer to the Minister on dissolution day.

Section 10 Liability for loss occurring before dissolution day provides that:

- any claim laying against ReBo arising from the performance of its functions before dissolution day shall thereafter lie against the Minister;
- any legal proceeding to which ReBo is party should continue post dissolution as if the Minister were party; and
- any claims that ReBo could make shall be capable of being made/ claimed by the Minister post dissolution and may be pursued and sued by the Minister as if the loss or injury had been suffered by the Minister. Similarly, where a claim has been given in favour of a person that is enforceable against ReBo, this should be enforceable against the Minister post dissolution.

Section 11 Provisions consequent upon transfer of functions, property, rights and liabilities provides that anything started by ReBo but unfinished as of dissolution may be carried on or completed by the Minister. Instruments granted or made in the performance of a function transferred by section 7, operative before dissolution day, shall have effect post dissolution as if granted or made by the minister. Any money, stocks, shares or securities held by ReBo may be transferred (if the Minister so wishes) into the Minister's name.

Section 12 Records of dissolved body provides that all records of ReBo shall become the Minister's records upon dissolution and be regarded as being held by the Minister.

Section 13 Final accounts of dissolved body provides that it shall be for the Minister to cause the preparation of the final ReBo accounts (but not later than one year after dissolution), accounts should be audited by the Comptroller and Auditor General and laid before each House of the Oireachtas. This section also gives the Minister flexibility to specify a longer or shorter accountant period for the final accounts.

PART 3

AMENDMENT OF ACT OF 2012

This Part provides for amendment of certain sections of the Credit Union and Co- operation with Overseas Regulators Act 2012 which are necessary due to the dissolution of ReBo.

Section 14 Amendment of section 47 of Act of 2012 which deals with the ReBo Levy substitutes subsection 5 of section 47 to provide that the Minister may recover any outstanding fees due and owed to ReBo in respect of ReBo levies charged under Credit Union Fund (ReBo Levy) Regulations.

Section 15 Amendment of section 48 of Act of 2012 which deals with collection of ReBo Levy substitutes subsection 1 of section 48 to provide that the Minister can collect ReBo levies charged under Credit Union Fund (ReBo Levy) Regulations.

Section 16 Amendment of section 50 of Act of 2012 which deals with Non-disclosure of information substitutes the ‘Minister’ for ‘ReBo’ in subsection (3) and paragraph (b) of subsection (6) of section 50 to provide that the Minister may disclose information, including confidential information.

Section 17 Amendment of section 57 of Act of 2012 provides that the Minister can remove and transfer monies left over after the dissolution of ReBo into the Central Fund. The intention is to transfer all monies referable to restructuring funds out of the Credit Union Fund whereby the only monies remaining in the Credit Union Fund will be the stabilisation funds which are collected from credit unions via the stabilisation levy. This section allows for the Minister to meet any expenses incurred by him in the performance of his functions under the Act and relating to and associated with the dissolution of ReBo.

Section 18 Amendment of Section 59 of Act of 2012 provides in subsection 4 and subsection 5 for the substitution of “subsection 3” for “subsection 2”. Subsection 3 deals with the Minister making regulations for the provision of stabilisation support which will continue post ReBo, whereas subsection 2 dealt with provision of regulations for restructuring support which is no longer relevant. In subsection (4)(a) the reference to “providing financial support for the restructuring of credit unions under this part” is deleted. This section also provides for the deletion of the reference to ReBo in subsection (6)(a), which provides that the Minister must consult with the Central Bank, Credit Union Advisory Committee and ReBo when making regulation in respect of stabilisation support.

Section 19 Amendment of section 65 of Act of 2012 provides for the substitution in subsection (1)(a) of “Subject to section 64” for “Subject to subsection (2) and section 64”. Subsection (2) provides that the Bank shall not approve the provision of stabilisation support unless ReBo recommended that the credit union be considered by the Bank for stabilisation support and section 64 provides that the Bank shall not approve the provision of

stabilisation support unless the Credit Union Fund contains the necessary funds. The amendment therefore provides that the approval of ReBo will no longer be required and that the Bank may approve stabilisation support subject to the necessary funds being available.

PART 4

MISCELLANEOUS AMENDMENTS

This Part provides for miscellaneous amendments required to the Central Bank Act 1942 and the Freedom of Information Act 2014 due to the dissolution of ReBo.

Section 20 Amendment of section 33AK of Central Bank Act 1942 provides that in section 33AK (5) (aja) reference to ‘ReBo’ and ‘that Board’s functions’ should be deleted and replaced with references to the Minister and the Minister for Finance’s functions under the 2012 Act. This amendment is required so that it is permissible for the Central Bank to disclose confidential information to the Minister as to regards any functions he needs to perform as the successor of ReBo. However, there should be none in light of the fact that the functions of ReBo have been completed.

Section 21 Amendment of section 61H of Central Bank Act 1942 provides for the repeal of subsection (ca) of section 61H(4) of the Central Bank Act 1942. Subsection (ca) inserted ReBo as a prescribed body in relation to the collection of a levy under the Central Bank Act 1942 and post ReBo this will no longer be required.

Section 22 Amendment of Schedule 1 to Freedom of Information Act 2014 provides for the substitution of paragraph (e) which deletes reference to ReBo and replaces it with a reference to the Minister for Finance in relation to any records held by the Minister containing personal or confidential information of any person, held by the Minister for the purposes of performing any of his statutory functions under the 2012 Act, other than where that information is presented in such a manner that ensures that no such personal or confidential information is disclosed and that no person can be identified from the records or information concerned.

*An Roinn Airgeadais,
Feabhra, 2019.*