



**An Bille um an nGníomhaireacht Chúltaca Ola
Náisiúnta (Leasú) agus um Sholáthar Seirbhísí Lárnacha
Cisteáin, 2020**

**The National Oil Reserves Agency (Amendment) and
Provision of Central Treasury Services Bill 2020**

*Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum*



**AN BILLE UM AN nGNÍOMHAIREACHT CHÚLTACA OLA
NÁISIÚNTA (LEASÚ) AGUS UM SHOLÁTHAR SEIRBHÍSÍ
LÁRNACHA CISTEÁIN, 2020**

**THE NATIONAL OIL RESERVES AGENCY (AMENDMENT) AND
PROVISION OF CENTRAL TREASURY SERVICES BILL 2020**

EXPLANATORY AND FINANCIAL MEMORANDUM

(This Memorandum is not part of the Bill and does not purport to be a legal interpretation)

Introduction

The purpose of the Bill is to amend the National Oil Reserves Agency Act 2007 (as amended) to provide for the establishment of the Climate Action Fund on a statutory basis, extend the purposes for which the levy on relevant disposals of petroleum products is paid to include providing funding to the Climate Action Fund and provide for payment of a portion of the levy monies collected by the National Oil Reserve Agency (NORA) to the Climate Action Fund. The NORA levy (also known as the petroleum product levy) is collected at a rate of €0.02 per litre on most oil products placed on the market and is used to fund the activities of NORA, primarily in the maintenance of the State’s strategic oil reserves. These amendments to the NORA Act will allow for the repurposing of NORA levy monies to support projects and initiatives from the Climate Action Fund that can contribute to achieving the State’s climate action goals in a cost effective manner.

The Bill also amends the the National Treasury Management Agency (Amendment) Act 2000 to provide for NORA as a “designated body”, to whom the National Treasury Management Agency (NTMA) may provide “central treasury services”. This allows the NTMA to take deposits from and/or make advances to NORA, as an alternative to the current utilisation of the commercial banks.

The Bill also provides for Irish Water to be given “designated body” status under the NTMA legislation. This facility is required to facilitate the restructuring of Irish Water’s funding arrangements, whereby existing funding from mainly commercial banks can be replaced with more competitively priced State funded debt facilities. The NTMA facility to Irish Water is intended to cover short-term and temporary timing-related funding requirements.

Provision is also made in the Bill to provide for technical changes to the Biofuels Obligation Scheme and for the fixing of the rate of the Biofuels Levy to a nominal amount to incentivise the use of biofuels.

Provisions

There are 3 parts to the Bill, which contains 28 sections.

PART 1
Preliminary and General

Sections 1-2

Section 1 contains the standard provisions of the long and short titles and commencement details. *Section 2* is the standard definition section, which defines the Minister as being the Minister for Communications, Climate Action and Environment and the Principal Act as being the National Oil Reserves Agency Act 2007.

Section 3

Section 3 revokes existing provisions of secondary legislation that set the rate of the NORA levy (Regulation 4(1) of, and Schedule 1 to, the National Oil Reserves Agency Act 2007 (Returns and Levy) Regulations 2007 (S.I. No. 567 of 2007)). These revocations are required as the Bill deletes the existing provisions of the Principal Act that allow the Minister to set the rate of the levy by regulation and inserts a new provision that fixes the rate of the levy at 2 cent per litre.

PART 2
Amendments to the Principal Act

Section 4

Section 4 amends section 2 of the Principal Act, providing a definition for the “Climate Action Fund”.

Section 5

Section 5 amends section 8 of the Principal Act, expanding the functions and powers of NORA to now include paying NORA levy funds into the Climate Action Fund, as directed by the Minister.

Sections 6-10

Sections 6-10 make technical amendments to the provisions of the Principal Act that provide for the expenses of the Agency or any subsidiary to be paid out of the proceeds of the NORA levy or biofuels levy. The effect of the amendments is to now also provide for the payment of expenses from the proceeds of the NORA levy or biofuel levy monies recovered (recovered levy or biofuels levy proceeds are those which have not been paid to NORA within the time frame specified by regulation by the Minister and which are then required to be recovered by NORA).

Section 11

Section 11 provides for textual efficiency in the Principal Act, removing “Principal Act” from section 31A, subsection (2)(a)(i).

Section 12

Section 12 amends section 36 of the Principal Act so that the definition of the expenses of NORA and any designated subsidiary includes not only the costs incurred in the collecting of the NORA levy and biofuels levy, but also the costs incurred in recovering the NORA levy and the biofuels levy.

Section 13

Section 13 amends section 37 of the Principal Act, expanding the purpose for which the levy is paid from the current purpose of funding the expenses of NORA to also include contributing to the Climate Action Fund. This section also sets the rate of the levy to €0.02 per litre by statute.

Section 14

Section 14 inserts a new section 37A into the Principal Act, which permits the Minister to issue an annual direction to NORA to pay a specified amount of levy monies to the Climate Action Fund. The section provides that only levy monies collected and recovered after the legislation has commenced may be paid to the Climate Action Fund.

Prior to making a direction, the Minister is required to consult with NORA, the Minister for Public Expenditure and Reform and the Minister for Finance. The Minister is required to be reasonably satisfied in making a direction that NORA will have adequate financial resources remaining, after payment has been made, to meet its expenses during the remainder of the current financial year. In addition, the Minister must consider the amount specified to be appropriate, having regard to any future expenditure which may be required in subsequent years.

The section specifies the matters that the Minister must have regard to in order to determine the cash balance of NORA, the proceeds likely to accrue, and the estimated expenses of NORA, during the current financial year. For this purpose, the Minister will have regard to, *inter alia*, NORA's Strategy Statement, information provided by NORA during the consultation prior to the making of the direction, the proceeds of the levy collected in the previous financial year, NORA's expenses in the previous financial year and NORA's Financial Statements for the previous financial year, where available.

Section 15

Section 15 inserts a new section 37B into the Principal Act, which establishes and provides governance arrangements for the Climate Action Fund. The fund shall be established on the commencement of the Act and shall be controlled by the Minister or by persons to whom the management and control of the fund has been delegated by order of the Minister. The fund will consist of such accounts that the Minister shall determine as necessary, with provision made for the submission of the accounts of the fund to the Comptroller and Auditor General for audit and the laying of a copy of the report of the Comptroller and Auditor General and audited accounts before each House of the Oireachtas.

The purpose of the fund is outlined and includes supporting projects, initiatives or research that seeks to reduce greenhouse gas emissions, increase the production or use of renewable energy or improve energy efficiency in the State. In addition, provision is made for projects or initiatives to support regions and sectors of the economy impacted by the transition to a low carbon economy.

Provision is made for the Minister to invite proposals to avail of monies from the fund. Monies may only be paid from the fund to persons who have conducted projects in accordance with the guidelines specified by the Minister, in consultation with the Minister for Public Expenditure and Reform. Provision is also made for the establishment of a committee to advise the Minister on any aspect of the Minister's functions relating to the fund. Provision is further made for the payment of the expenses incurred in connection with the administration of the fund, with the consent of the Minister for Public Expenditure and Reform.

Section 16

Section 16 makes a consequential amendment to section 40 of the Principal Act, so that it no longer refers to the Minister setting the rate of the levy but instead refers to section 37A(1A), which fixes the rate of the levy at €0.02 per litre.

Section 17

Section 17 makes a consequential amendment to section 41 of the Principal Act, so that it no longer refers to the Minister setting the rate of the levy, but instead refers to the rate of the levy specified in section 37(1A), in the context of the monthly levy assessment notice provided by the Minister to oil company's and oil consumers.

Section 18

Section 18 makes consequential amendments to section 44 of the Principal Act, removing the ability of the Minister to set the rate of the levy by regulation. In addition, other provisions relating to the Ministers power to set the rate of the levy by regulation are also deleted. These provisions are no longer required as the rate of the levy is now set in section 37(1A) and cannot be adjusted by the Minister.

Section 19-21

Sections 19-21 amend sections 44B, 44D and 44G of the Principal Act, providing for changes in Departmental responsibilities, whereby references to the Minister for the Environment, Heritage and Local Government, as a consultee on matters relating to the biofuels obligation scheme, are amended to the Minister for Transport, Tourism and Sport. The Minister for Finance is also added as a consultee, as appropriate.

Section 22

Section 22 makes a technical change to section 44I of the Principal Act in relation to the biofuels obligation scheme, whereby the amount of biofuel certificates from the two previous obligation periods which may be used in the current period is reduced from the previous cap of 25% to 15% of the total obligation.

Section 23

Section 23 (similar to sections 19-21), provides that the reference to the Minister for the Environment, Heritage and Local Government in section 44J of the Principal Act, as a consultee relating to the biofuels obligation scheme, is to be amended to the Minister for Transport, Tourism and Sport. The Minister for Finance is also added as a consultee within this section.

Section 24

Section 24 amends section 44N of the Principal Act by setting the rate of the biofuel levy at €0.001 per litre of biofuels placed on the market. Setting the rate of the biofuel levy to a nominal amount removes an anomaly which currently exists, whereby the levy placed on biofuels is the same as that on petroleum products placed on the market.

Section 25

Section 25 makes a consequential amendment to section 44P of the Principal Act, so that it no longer refers to the Minister setting the rate of the biofuel levy, but instead refers to the rate of the biofuel levy specified in section 44N(1A), which fixes the rate of the biofuel levy at €0.001 per litre.

Section 26

Section 26 makes a consequential amendment to section 44Q of the Principal Act, so that it no longer refers to the Minister setting the rate of the biofuel levy, but instead refers to the rate of the biofuel levy specified in section 44N (1A), in the context of the monthly biofuel levy assessment notice provided by the Minister to biofuel obligation account holders.

Section 27

Section 27 makes consequential amendments to section 44T of the Principal Act, removing the ability of the Minister to set the rate of the biofuel levy by regulation. Other provisions relating to the Ministers power to set the rate of the biofuel levy by regulation are also deleted. These provisions are no longer required as the rate of the levy is now set in section 44N (1A) and cannot be adjusted by the Minister.

PART 3

**Amendments to the National Treasury Management Agency
(Amendment) Act 2000**

Section 28

Section 28 amends section 18 of the National Treasury Management Agency (Amendment) Act 2000 to provide for the designation of both NORA and Irish Water as designated bodies, to which the NTMA may provide “central treasury services”. This allows the NTMA to take deposits from and/or make advances to the agencies, as required. NORA will be permitted to deposit monies with the NTMA as an alternative to their current utilisation of the commercial banks and this provision also facilitates the restructuring of Irish Water’s funding arrangements.

Financial Implications

It is not envisaged that there will be any significant cost to the Exchequer incurred as a result of any of the above provisions. NORA levy funding, after the Agency’s expenses have been met, will be utilised for the Climate Action Fund. The provision of “central treasury services” by the NTMA to NORA and Irish Water provides for efficiencies in the financial management of both agencies.

*Roinn Cumarsáide, Gníomhaithe ar son na hAeráide & Comhshaoil,
Meitheamh, 2020.*