



An tAcht um Athbhreithniú Creidmheasa, 2026
Credit Review Act 2026

Meabhrán Miniúcháin
Explanatory Memorandum

[*Revised*]



AN tACHT UM ATHBHREITHNIÚ CREIDMHEASA, 2026
CREDIT REVIEW ACT 2026

EXPLANATORY MEMORANDUM

The Explanatory Memorandum does not form part of the Act and does not purport to be a legal interpretation.

Purpose of the Act

The purpose of this Act is to provide for the establishment of An tSeirbhís um Athbhreithniú Creidmheasa, the Credit Review Service (referred to here as ‘the Service’), as a body corporate, with the chief executive officer of the Service being the Credit Reviewer.

The Service shall have two key functions:

1. to review credit decisions for SMEs and farm borrowers, and
2. to monitor the lending practices, activities and policies impacting these sectors.

The Act will formalise the arrangements set out in regulations “S.I. No. 127/2010 - Guidelines Issued Under Section 210(1) of the National Asset Management Agency Act 2009 Regarding Lending Practices and Procedures and Relating to the Review of Decisions of Participating Institutions to Refuse Credit Facilities”.

The Service will review credit decisions of credit institutions other than credit unions. The Act provides for the potential future expansion of the scope of the Service to cover other classes of regulated financial service providers, including credit unions, beyond credit institutions, to take account of its changing operating environment.

Main Provisions of the Act

Part 1

Preliminary and General

Part 1 provides for the short title, commencement, definitions that pertain to the Act, the prescribed amount of a loan which may be subject to review, the making of regulations, methods for serving notices, repeals and revocations, as well as expenses.

Section 1 — Short Title and Commencement is a standard provision and provides for the short title of the Act and the commencement of the Act on such day or days as the Minister for Finance by order appoints. It is intended that the Act will come into effect on 1st July 2026.

Section 2 — Interpretation defines key terms used throughout the Act including ‘credit decision’ and ‘constructive refusal’ which set out which decisions may be subject to review by the Service, as well as definitions

for SME and farmer. The terms ‘credit institution’, ‘relevant person’ and ‘relevant activity’ are defined which are used to elaborate the scope of the Service. The initial scope of the Service will be credit institutions (other than credit unions) carrying out a ‘relevant activity’ (*i.e.* entering into or offering to enter into credit facility agreements with borrowers). The Act also enables the scope to be broadened by regulations to include credit unions and/or other classes of regulated financial service providers carrying out relevant activities. The Minister for Finance may so expand the scope of the Service after consultation with the Central Bank of Ireland, the Service and the Competition and Consumer Protection Commission having regard to the extent to which demand for credit is being met, the importance to borrowers and the economy of particular types of credit and the amount of credit being provided to borrowers.

Section 3 — *Prescribed minimum and maximum amounts* provides that the Minister for Finance shall make regulations prescribing a minimum and maximum amount for the purpose of the definition of ‘credit facility’, with the minimum amount being not less than €1,000 and the maximum amount being not greater than €5,000,000. In prescribing the amount, the Minister is to have regard to the prevailing economic conditions in the credit market, the demand for credit by borrowers, the extent to which that demand for credit is being met, the significance to borrowers and the economy of being able to access credit and the total credit provided to borrowers along with any trends in the amount of credit supplied.

Section 4 — *Regulations* provides that the Minister for Finance may make regulations prescribing any matter or thing, which is referred to in the Act as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any provisions to have full effect. Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas and is open to a motion to annul.

Section 5 — *Service of notices* outlines the methods by which the Service may serve notices.

Section 6 — *Repeals and Revocations* sets out the legislation (Acts and Statutory Instruments) to be repealed and revoked including section 210 of the National Asset Management Agency Act 2009.

Section 7 — *Expenses* is a standard provision, which provides that the expenses of the Minister for Finance incurred in the administration of the Act shall be paid out of moneys provided by the Oireachtas, subject to the sanction of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.

Part 2

Credit Review Service

Part 2 contains provisions to establish the Credit Review Service, outline the functions of the Service, define the roles and responsibilities of the Credit Reviewer and the staff of the Service, outline procedures for his/her resignation, superannuation, and removal from office and address matters related to the engagement of consultants and advisers as well as accounts and audit. Additionally, it covers the Credit Reviewer's appearance before the Committee of Public Accounts and their accountability to other Oireachtas committees. It sets out the obligation on the Service to prepare an annual report as well as other *ad hoc* reports related to the functions of the Service and a strategy statement covering a period of 3 years. Furthermore, it addresses the liability of the Service and the Credit Reviewer in handling confidential information.

Section 8 — *Establishment day* is a standard provision, which provides that the Minister for Finance shall by order appoint a day as the establishment day for the purposes of this Act.

Section 9 — *Establishment of the Credit Review Service* provides for the establishment of the Credit Review Service.

Section 10 — *Functions of the Service* outlines the functions of the Service, which are primarily to review credit decisions and lending policies of relevant persons, prepare, and publish information relating to markets for the provision of credit to SMEs.

Section 11 — *Credit Reviewer* outlines the process of appointing the Credit Reviewer and provides that the person who, immediately before the establishment day, is the Credit Reviewer for the purposes of SI 127/2010 shall, on the establishment day, become the Credit Reviewer for the purposes of the Act. It also sets out the parameters of the conditions of employment, including the process for resignation.

Section 12 — *Functions of Credit Reviewer* outlines the functions of the Credit Reviewer, namely assuming the duties of accounting officer, overseeing the staff, administration and operations of the Service, being accountable to the Minister for Finance in the performance of his/her duties, supplying the Minister with necessary information regarding his/her performance and the execution of the relevant policies and priorities, and executing any additional functions permitted by the Act.

Section 13 — *Ineligibility for appointment, disqualification and removal from office* provides for criteria that disqualify a person for appointment as Credit Reviewer, and that the Minister for Finance can remove the Credit Reviewer from office for stated reasons and, in this event, shall lay a statement outlining the reasons for this before the Houses of the Oireachtas.

Section 14 — *Membership of either House of Oireachtas or European Parliament or local authority* is a standard provision, which provides that the Credit Reviewer or any member of the staff of the Service cannot simultaneously be a member of the Oireachtas, the European Parliament, or a local authority.

Section 15 — *Staff of the service* provides that the Credit Reviewer may, with the approval of the Minister and the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, appoint to the Service such staff as are deemed necessary, including seconded staff.

Section 16 — *Superannuation* is a standard provision, which allows for the creation of a scheme or schemes to provide superannuation benefits and specify relevant conditions applicable to the Credit Reviewer or staff of the Service (other than those to whom the Single Public Service Pension Scheme applies), subject to the approval of the Minister for Finance and with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation. Any such Scheme shall be laid before the Houses of the Oireachtas.

Section 17 — *Consultants and advisers* provides that the Service may engage such consultants and advisers as it considers necessary for the performance of its functions.

Section 18 — *Accounts and audit* provides that the Service will be subject to audit by the Comptroller and Auditor General, that the audits are to be provided to the Minister for Finance, and are to be laid before the Houses of the Oireachtas.

Section 19 — *Appearance of Credit Reviewer before Committee of Public Accounts* is a standard provision, which outlines that the Credit Reviewer is required to appear before the Committee of Public Accounts of Dáil Éireann, as requested.

Section 20 — *Accountability of Credit Reviewer to other Oireachtas committees* is a standard provision, which outlines that the Credit Reviewer is required to appear before other Oireachtas committees and that he or she shall not testify before such committee in relation to any matter that is *sub judice*.

Section 21 — *Reports to the Minister* requires the Service to furnish the Minister for Finance by April 30 each year with an annual report on the performance of its functions during the previous year. This report will be laid before the Houses of the Oireachtas and subsequently published. The annual report will feature information relating to progress on the implementation of the Service's strategy statement, trends and developments in credit markets, and any other matters specified by the Minister for Finance.

Section 22 — *Strategy statement* provides that the Service shall submit a strategy statement for approval by the Minister for Finance, not later than 6 months after the establishment day and every three years thereafter. This strategy statement shall pertain to the 3-year period immediately following the year in which it is submitted. The statement must outline the primary objectives, outputs, and related strategies (including resource allocation) of the Service. It should also outline how the Service plans to evaluate its performance in relation to these objectives, considering relevant performance indicators (both financial and non-financial) and include a review of the preceding strategy statement. The Strategy statement shall be laid before the Houses of the Oireachtas and subsequently published.

Section 23 — *Liability of service and Credit Reviewer* is a standard liability clause which outlines that neither the Service nor the Credit Reviewer are responsible for compensating for any actions taken or not taken in the execution of duties under this Act, unless such actions were carried out or omitted in bad faith.

Section 24 — *Prohibition on unauthorised disclosure of confidential information* creates an offence where the Credit Reviewer, member of staff or consultant makes an unauthorised disclosure of information acquired while performing functions of the Service.

Part 3

Review of credit decisions and lending practices

Part 3 contains provisions in relation to the review of credit decisions and lending practices and the activities of relevant persons.

Section 25 — *Definition (Part 3)* provides a definition of “application for review”, an application made by a borrower to the Service in accordance with section 26(1) for review of a credit decision to distinguish it from the applications by borrowers for credit defined in Part 1 and used elsewhere in the Act.

Section 26 — *Review of credit decisions* provides that the Service shall have such powers as are necessary to undertake the review of credit decisions relating to borrowers and sets out the timeframe by which applications for review shall be made. The procedures for conducting the review shall be as set out by the Service. This section also specifies that on completion of the review, the Service shall decide to either uphold

the credit decision or recommend that the relevant person should offer credit or an alternative arrangement to the borrower or make any other such recommendation it considers appropriate. Such decisions shall have regard to the ability of the borrower to comply with the loan terms and conditions and fulfil its repayment obligations in relation to the credit agreement. The relevant person shall acknowledge the decision and, where applicable, either comply with the recommendation or explain the reasons why it is not complying with the recommendation within a set timeframe.

Section 27 — *Declining to conduct a review* provides that the Credit Reviewer shall have such powers to decline a review which is frivolous or vexatious in nature, has not been made by an eligible borrower, has not been through an internal appeals process of a relevant person, where the borrower has not paid the necessary fee to the Service, or has not complied with the Service's review procedures. The Service may also decline to conduct a review or may discontinue a review where it deems the decision has already been the subject of a prior review or was notified to the borrower more than thirty days prior to the establishment day.

Section 28 — *Prescribed Fee* allows the Minister for Finance to establish regulations that authorise the Service to impose fees on SMEs and farm borrowers for providing the appeals service.

Section 29 — *Credit Review Service Levy* provides for the Service to charge a levy on relevant persons for the provision of service as prescribed by regulations to be made by the Minister for Finance.

Section 30 — *Review of lending practices, activities and policies of relevant persons* provides for the Service, upon request by the Minister for Finance, to conduct a review of the provision of credit facilities to borrowers by relevant persons and the effect of same on the availability of credit. Relevant persons shall provide documents including annual policies or plans with targets for the purpose of the review as well as aggregated data and commentary. Any information and documents provided by the relevant individuals are to be shared with the Minister for Finance. Furthermore, the Service may request representatives of the relevant persons and officers of the Minister to attend a meeting to discuss the information and documents provided.

Part 4

Transitional, consequential and miscellaneous provisions

Part 4 outlines transitional provisions.

Section 31 — *Definition (Part 4)* defines Credit Reviewer as the person who was serving as Credit Reviewer immediately prior to establishment day.

Section 32 — *Transitional provisions consequent upon conferral of functions on Service* provides that anything initiated but not finished by the Credit Reviewer prior to the establishment day under the guidelines shall, in terms of functions assigned to the Credit Review Service by this legislation, be continued or completed on or after the establishment day by the Service.

Section 33 — *Transfer of rights and liabilities* provides that any claim for a loss or injury allegedly experienced by an individual due to the actions of the Credit Reviewer prior to the establishment of the Service, as outlined in the Guidelines, will be directed towards the Service from the day of its establishment onwards.

Section 34 — *Records* allows for the transfer of records held by the incumbent Credit Reviewer to the Service on establishment day.

Section 35 — *Preservation of contracts* provides that any contract, agreement, or arrangement entered into by the individual who was acting as the credit reviewer prior to the establishment day, in the course of carrying out duties under the guidelines, with another party, shall remain valid.

Section 36 — *Liability for loss occurring before establishment day* provides for the transfer of rights and liabilities, continuation of leases, licences and permissions entered into by the dissolved body to the Service.

Part 5

Consequential amendments to other enactments

Part 5 contains consequential amendments to other enactments.

Section 37 — *Amendment of Schedule 3 to the Taxes Consolidation Act 1997* makes consequential amendments to the Taxes Consolidation Act 1997.

Section 38 — *Amendment of Financial Services and Pensions Ombudsman Act 2017* makes consequential amendments to the Financial Services and Pensions Ombudsman Act 2017.

Section 39 — *Other consequential amendments* makes consequential amendments to the Ethics in Public Office (Prescribed Public Bodies, Designated Directorships of Public Bodies and Designated Positions in Public Bodies) Regulations 2004 (S.I. No. 699 of 2004).

*An Roinn Airgeadais,
Meitheamh, 2026.*