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# Bill Digest

## National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018

## Bill No. 116 of 2018

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## Abstract

The *National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018* will provide the legislative basis for the establishment of a new National Surplus (Exceptional Contingencies) Reserve Fund or 'Rainy Day' fund. Upon its establishment, the fund will be seeded with an initial transfer from the Ireland Strategic Investment Fund (ISIF). The fund will be capped at an overall level of €8 billion.

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## Legal Disclaimer

# Summary

- The primary purpose of the *National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018* is to provide the legislative basis for the establishment of a 'Rainy Day' fund. The fund will be formally known as the National Surplus (Exceptional Contingencies) Reserve Fund (hereafter "the Fund"). This represents an institutional reform in Ireland's fiscal policy framework;
- The primary purpose of the Fund[1] is to mitigate severe economic shocks in excess of the normal fluctuations of the economic cycle. According to previous Government statements, the Fund will, in particular, help to maintain living standards and support vulnerable groups in society in the event of a severe economic downturn[2]. The Fund will also seek to mitigate risk associated with a reliance on corporation tax receipts and other once-off 'windfall' revenue to maintain a more sustainable tax base;
- A Regulatory Impact Analysis (RIA) has been published in relation to the Bill. The RIA examines four options. In relation to potential impacts, option 4 (the chosen option) states the following under the heading 'National Competitiveness':

  > "The counter-cyclical[3] effects of creating the reserve fund will take effect and may reduce current overheating pressures.
  >
  > In the event of a severe downturn, the fund can be drawn on to support ongoing infrastructural investment with associated employment benefits."

- The Fund will be capped at a maximum of €8 billion[6] which will be held readily accessible cash/near-cash form. Monies will be accumulated in the fund by:
  - An initial transfer in 2019 of **up to[7] €2 billion** from the Ireland Strategic Investment Fund (ISIF) 30 days after commencement of the relevant section;
  - Annual Exchequer transfers of **€500 million per annum** for 5 years (2019-2023) unless exceptional circumstances arise (i.e. natural or other disasters including severe weather events or a major epidemic such as foot-and-mouth). ;
- Provision is also made for periodic transfers from the Exchequer subject to the approval of Dáil Éireann. The Government has previously stated its intention to also transfer 'windfall' tax receipts to the Fund. However, it has not detailed these amounts in its forecasts underpinning *Budget 2019.* The Fund would be expected to reach its €8bn cap by the end of 2031 based on

[1] Department of Finance (2018) *Publication of Rainy Day Fund legislative moves us a step closer to a more resilient economy – Donohoe*, 23 October 2018.
[2] Department of Finance (2018) 'Summer Economic Statement', 19 June 2018, p.3.
[3] "Counter-cyclical fiscal measures are policy measures which counteract the effects of the economic cycle. For example, counter-cyclical fiscal policy actions when the economy is slowing would include increasing Government spending or cutting taxes to help stimulate economic recovery." See Eurostat: Statistics Explained at https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Counter-cyclical_fiscal_measures
[6] Department of Finance (2018) Economic and Fiscal Outlook, 9 October 2018, p. 21.
[7] The proposed transfer from ISIF has been profiled as €1.5 billion which was announced on Budget Day 2018. The "up to" €2 billion transfer from ISIF allows ample headroom if the assets transferred are not cash and appreciate before they are liquidated.

the initial transfer and annual Exchequer transfers. However, the Bill only provides for annual transfers up to 2023;

- A drawdown from the Fund may be made where the Minister is satisfied, on reasonable grounds, and involving evidence and expert analysis, that it is necessary in the event of a severe economic shock. This also requires a Government decision and Dáil resolution[8], or, in an exceptional case of urgency, the Government has approved such a payment;
- The Committee on Finance, Public Expenditure and Reform, and Taoiseach agreed not to undertake pre-legislative scrutiny (PLS) of the General Scheme / draft Heads of the Bill in September 2018. However, the Committee on Budgetary Oversight has scrutinsed the proposal as part of the Department's consultation process (see below).

# Timeline

- On **11 May 2016**, the Programme for Partnership Government is published and commits under Section 3 – 'Creating a Social Economy' (subsection 1 'Sound Public Finances and a Stable and Broad Tax Base') to the establishment of a 'Rainy Day' reserve fund;
- On **21 June 2016**, the Government announces its formal intention to establish a contingency reserve / 'Rainy Day' fund with effect from 2019 once a balanced budget is achieved. The 2016 Summer Economic Statement provisionally outlines that approximately €1bn per annum of fiscal space will be retained within the Exchequer and allocated to the fund from 2019 onwards;
- On **12 July 2017**, the 2017 Summer Economic Statement (SES) is published which details that the proposed fund will require annual contributions of €500m (0.2% of forecast 2019 Gross Domestic Product – (GDP)), a reduction of €500m compared to the original proposal, to allow for an increase in capital expenditure ("physical and social infrastructure"). There will be an initial transfer of "at least" €1.5bn from the Ireland Strategic Investment Fund (ISIF). The SES also states that the "allocations to the Rainy Day fund would have no impact on the general government balance as they are classified as a financial transaction";
- On 10 **October 2017** (Budget Day), the Department of Finance publishes its consultation paper on the establishment of a 'Rainy Day' fund. The purpose of the consultation is to provide an opportunity for the Oireachtas to examine proposals for the operation of the fund and the circumstances (i.e. trigger mechanism) under which it would be deployed. The Committee on Budgetary Oversight (BOC) commences scrutiny of the consultation paper. The Department of Finance confirms that the fund will be capitalised with €1.5bn from the ISIF and annual transfers from the Exchequer commencing in 2019;[9]

[8] Department of Finance (2018) *Publication of Rainy Day Fund legislative moves us a step closer to a more resilient economy – Donohoe*, 23 October 2018.
[9] Department of Finance (2018) Economic and fiscal outlook, 10 October 2018, p. 25.

- On **31 January 2018**, the Minister for Finance, Public Expenditure and Reform meets with the BOC to discuss the design, operation and purpose of the fund[10];
- On **23 May 2018**, the Government approves drafting of a 'Rainy Day' fund Bill;[11]
- On **18 July 2018,** the BOC publishes its interim pre-Budget report. The report, informed by contributions and policy advice provided to the Committee by the Oireachtas Parliamentary Budget Office (PBO) and the Irish Fiscal Advisory Council (IFAC) concludes that there are a number of areas where there is a need for greater clarity on the purpose and design of the fund;
- On **9 October 2018** (Budget Day), the Department of Finance[12] set out that the Exchequer will allocate "some of the historically high levels of corporation tax" for the purpose of capitalising the fund but does not provide further detail. The Outlook states that the fund will be capped at €8bn which "provides sufficient scope to deal with its intended remit".

[10] Oireachtas (2018) Committee on Budgetary Oversight debate – Proposal to establish a Rainy Day Fund: Minister for Finance, 31 January 2018.
[11] Merrion Street (2018) '*Government approves drafting of Rainy Day Fund Bill'*, 23 May 2018.
[12] Department of Finance (2018) Economic and Fiscal Outlook, 9 October 2018.

# Introduction

The *National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018* was published on 24 October 2018 by the Minister for Finance and Public Expenditure and Reform, Paschal Donohue T.D. The aim of the Bill is to provide for the establishment of a reserve Fund to be used to mitigate severe economic shocks, in excess of the normal fluctuations of the economic cycle.

## Table of provisions

A summary of the Bill is provided in Table 1, below. Key sections are dealt with in the Principal Provisions section of this Digest.

**Table 1: Table of provisions**

| *Section* | *Title* | *Explanation* |
|---|---|---|
| 1 | **Definitions** | Sets out definitions for the purposes of the Bill. |
| 2 | **Establishment of National Surplus (Exceptional Contingencies) Reserve Fund** | Provides for the establishment of the Fund and sets out that the purpose of the Fund is to hold relevant assets until they are transferred for the purposes specified in section 9(2), criteria for drawdown. |
| 3 | **Maximum amount that may stand to the credit of Fund** | Stipulates that the size of the Fund will be capped at €8 billion (excluding return on investment). |
| 4 | **Management and control of Fund and keeping of accounts** | Provides that the Fund will be managed and controlled by the Minister for Finance who will be responsible for keeping the accounts of the fund. Accounts will be subject to audit by the Comptroller and Auditor General (C&AG). The audit report will be laid annually before the Houses of the Oireachtas. |
| 5 | **Transfer of assets and certain sums to Fund** | States that a sum of €2bn will be transferred from the Ireland Strategic Investment Fund (ISIF) to the Fund within 30 days after commencement of this section, and €500m will be transferred from the Exchequer annually for 5 years (2019-2023). The section also provides this annual transfer may be reduced to provide for unforeseen expenditure (i.e. to mitigate the effects of a natural or other disaster) the Minister is required to report to Dáil Éireann. |
| 6 | **Supplemental provision in relation to section 5** | Provides that Dáil Éireann may, by resolution, authorise the Minister for Finance not to make the €500m payment in a given year where the Minister is satisfied on reasonable grounds that exceptional circumstances exist meaning that making the payment would represent an undue burden on the public finances. |
| 7 | **Amendment of *Act of 2014*** | Provides the legal basis on which the Minister for Finance may direct certain transfers to be made from the ISIF by inserting a new section into the *National Treasury Management Agency (Amendment) Act 2014.* |

| | | |
|---|---|---|
| 8 | **Investment of Fund** | Sets out the investment criteria for the Fund to ensure that when required the Fund can readily be drawn down to the Exchequer. This section also provides that the Minister maintains the full nominal value of the Fund and details criteria that must be adhered to where full nominal value cannot be conserved. |
| 9 | **Criteria for drawdown of Fund** | Prescribes the circumstances in which the Fund may be drawn from, and the formalities required for drawdown, including a provision for the procedure in case of extreme urgency when Dáil Éireann is not sitting. |
| 10 | **Drawdown of Fund** | Requires the Minister to make payments from the Fund to the Exchequer where Dáil Éireann has passed an authorising resolution or, in the exceptional case of urgency, Government has approved such a payment. |
| 11 | **Expenses** | A standard provision relating to expenses. |
| 12 | **Short title and commencement** | This Act may be cited as the National Surplus (Reserve Fund for Exceptional Contingencies) Act 2018. |

# The 'Rainy Day' Fund

## Context and purpose

The establishment of a Rainy Day fund is a response by Government to the recent fiscal crisis in Ireland. The Programme for a Partnership Government agreed in May 2016 following the February 2016 General Election commits to the establishment of such a fund. The purpose of the Fund is to create a reserve fund which can be drawn on in the event of a severe economic shock in order to help mitigate its effects. It also seeks to provide an additional tool to enable prudent management of the economy in good times.

A consultation paper referring to conceptual issues and the design of such a fund was published by the Department of Finance in October 2017. The paper identified a number of potential uses for the fund, including:

A. A **counter-cyclical stabilisation fund** to smooth the economic cycle;
B. A **contingency reserve fund** to address specific, unforeseen and 'one-off' events; or
C. A **deposit mechanism / contingency reserve**[13].

Each option has limitations, particularly regarding its applicability within the EU fiscal rules. Appendix 1 summarises the conclusions of the Oireachtas Parliamentary Budget Office (PBO) on the proposed uses for the fund (December 2017). A combination of options A and B appear to reflect the proposals included in this Bill.

## International practice

Rainy day funds are not common among European countries with Estonia being the exception.[14] However, some countries operate a counter-cyclical fund though not funded by Exchequer transfers. For example, Finland has such a fund comprising social security payments from employers.[15] Rainy day funds are however common among State Governments in the United States as those Governments are restricted from borrowing to fund current spending. However, this restriction does not apply to Ireland. In its March 2018 discussion paper, the International Monetary Fund (IMF) noted that a number of large EU Member States have proposed some form of Rainy Day / stabilisation funds or 'shock' insurance including France and Italy.[16]

[13] Contingency reserves are defined in the consultation paper as "monies that are not provided for as part of the annual estimates process but are available in-year in order to meet unforeseen events."
[14] See also: Oireachtas Parliamentary Budget Office (2017) 'Rainy Day Fund', 17 December 2017.
[15] Department of Finance (2017) Rainy Day Fund - Consultation Paper, October 2017, p. 3.
[16] IMF (2018) A Central Fiscal Stabilisation Capacity for the Euro Area, March 2018, p. 6.

## A euro area fund?

The IMF has also proposed that a Rainy Day fund be established for the euro area (comprising 19 Member States of the European Union, including Ireland). It previously indicated that a fund financed by annual contributions of between 1.5% and 2.5% of GDP could have increased the stability of the euro area prior to the outbreak of the recent crisis.[18],[19] Such a fund could also provide a necessary fiscal backstop for EU Banking Union. The IMF has more recently proposed an annual allocation of 0.35% of GDP.[20] The head of the European Stability Mechanism (ESM) has similarly noted that a short-term facility could play a similar role to a euro area Rainy Day fund.[22]

## The size of the Fund

Monies will be accumulated in the Fund by an initial transfer in 2019 of up to €2 billion (in uninvested cash and near-cash reserves) from the Ireland Strategic Investment Fund[23] (ISIF) and €500 million per annum from the Exchequer. The Fund will be capped at a maximum of €8 billion[24] and will reach this cap by the end of 2031 based on minimum annual Exchequer transfers alone.

**Table 2: Forecast annual allocation / transfers (as announced in Budget 2019) and proportional calculations, current forecast horizon (2019-2023) – GDP and GNI***

| Year | Total fund allocation | Forecast GDP | Fund allocation (as a proportion of GDP) | Forecast GNI* | Fund allocation (as a proportion of GNI*) |
|---|---|---|---|---|---|
| **2019** | Up to €2.5bn[25] | €341.48bn | Up to 0.73% | €207.6bn | Up to 1.2% |
| **2020** | €0.5bn | €359.98bn | 0.14% | €218.4bn | 0.23% |
| **2021** | €0.5bn | €375.78bn | 0.13% | €227.6bn | 0.22% |
| **2022** | €0.5bn | €392.23bn | 0.13% | €237.4bn | 0.21% |
| **2023** | €0.5bn | €409.73bn | 0.12% | €247.8bn | 0.20% |

Source: Budget 2019 *Economic and Fiscal Outlook* – Annex 4 (p.58), and L&RS calculations.

The annual Fund allocations / Exchequer transfers will therefore constitute up to 0.73% of GDP in 2019, reducing to 0.12% in 2023. However, based on GNI* (or modified Gross National Income)[26] the Fund allocation constitutes up to 1.2% of GNI* in 2019, falling to 0.20% in 2023. Compared to

[18] European Parliament (2016) A fiscal capacity for the euro area? Options for reforms for counter asymmetric shocks, September 2016.
[19] Irish Examiner (2013) 'IMF suggests 'rainy-day fund' to deal with crises', 25 September 2013.
[20] Irish Times (2018) '*Lagarde jumps into EU debate with 'rainy-day fund' plan*, 26 March 2018.
[22] Oireachtas Parliamentary Budget Office (2017) 'Rainy Day Fund', 17 December 2017, p.3.
[23] The Ireland Strategic Investment Fund is an €8.9 billion sovereign development fund managed and controlled by the National Treasury Management Agency (NTMA). Its statutory mandate is to invest on a commercial basis in a manner designed to support economic activity and employment in Ireland. The fund's predecessor was the National Pensions Reserve Fund (NPRF). For more information see the ISIF website at https://isif.ie/
[24] Department of Finance (2018) Economic and Fiscal Outlook, 9 October 2018, p. 21.
[25] Comprising an initial 'seed' transfer of *up to* €2bn and an exchequer transfer (allocation) of €500m, and assuming no periodic transfers are made from the Exchequer in that year. As confirmed by the Department in correspondence with the L&RS (16 November 2018), the "up to" €2 billion transfer from ISIF allows ample headroom if the assets transferred are not cash and appreciate before they are liquidated.
[26] GNI* is a new Irish-specific measure of economic activity which is an attempt to control the impact of globalisation on Irish macro-economic statistics. First published in 2016, this new measure excludes the profits of re-domiciled firms in Ireland and excludes the depreciation of intellectual property (IP) imports and the depreciation of aircraft owned by aircraft-leasing companies. An explanatory note on GNI* is available from the Department of Finance (May 2018) here.

forecast Government revenue and expenditure over the forecast horizon included in the Bill, the proportional allocations / transfers to the Fund are detailed below for illustrative purposes:

**Table 3: Forecast annual allocations / transfers (as announced in Budget 2019) and proportional calculations, current forecast horizon (2019-2023) – Government revenue and expenditure**

| Year | Total fund allocation | Government revenue *(forecasts)* | Fund allocation (as a proportion of forecast Government revenue) | Government expenditure *(forecasts)* | Fund allocation (as a proportion of forecast Government expenditure) |
|---|---|---|---|---|---|
| **2019** | Up to €2.5bn | €72.09bn | Up to 3.47% | €74.9bn | Up to 3.34% |
| **2020** | €0.5bn | €74.8bn | 0.67% | €77.2bn | 0.65% |
| **2021** | €0.5bn | €77.6bn | 0.64% | €78.8bn | 0.63% |
| **2022** | €0.5bn | €80.7bn | 0.62% | €81.05bn | 0.63% |
| **2023** | €0.5bn | €84.1bn | 0.59% | €83.5bn | 0.60% |

Source: Budget 2019 *Economic and Fiscal Outlook* – Table 10 (p.20), and L&RS calculations.

The IMF has previously indicated that annual Exchequer transfers of between 1.5%-2-5% of GDP (September 2016) are preferred to ensure any euro area Rainy Day fund could underpin the fiscal stability of the bloc. More recently, the IMF proposed a reduced figure of 0.35% of GDP (March 2018). The below Table sets out the notional fund allocation / annual Exchequer transfers if the proportional fund allocation was set at those levels (as a proportion of GDP and GNI*).

**Table 4: Notional fund allocation / Exchequer transfers (2019-2023)**

| Year | Proportional fund allocation | Annual transfers (GDP calculation) | Annual transfers (GNI* calculation) |
|---|---|---|---|
| **2019** | 0.35% | €1.2bn | €0.73bn |
| | 1.5% | €5.1bn | €3.1bn |
| | 2.5% | €8.5bn | €5.2bn |
| **2020** | 0.35% | €1.26bn | €0.765bn |
| | 1.5% | €5.4bn | €3.3bn |
| | 2.5% | €9.4bn | €5.5bn |
| **2021** | 0.35% | €1.32bn | €0.797bn |
| | 1.5% | €5.6bn | €3.4bn |
| | 2.5% | €9.4bn | €5.7bn |
| **2022** | 0.35% | €1.37bn | €0.831bn |
| | 1.5% | €5.9bn | €3.6bn |
| | 2.5% | €9.8bn | €5.9bn |
| **2023** | 0.35% | €1.43bn | €0.867bn |
| | 1.5% | €6.15bn | €3.7bn |
| | 2.5% | €10.24bn | €6.2bn |

Source: L&RS calculations, based on Budget 2019 *Economic and Fiscal Outlook* – Annex 4 (p.58).

The Irish Fiscal Advisory Council (IFAC) notes that the optimal size of a Rainy Day fund depends on its stated purpose and is often complex to determine, particularly when comparing with international practice.[27] The IFAC notes, in particular, that for a fund to be used for counter-

[27] IFAC (2018) Designing a Rainy Day Fund to work within the Fiscal Rules, May 2018.

cyclical purposes (as the RIA for this Bill indicates) the overall size of and annual contributions to the fund primarily depends on the nature of the economic cycle but warns that "predicting the nature of a future cycle is virtually impossible"[28] and so concludes that the Fund, if used in this way, should be flexible.

## Commentary

In relation to additional payments to the Fund, the Government has stated that it will also be used to mitigate risk associated with a reliance on corporation tax receipts and other once-off 'windfall' tax revenue. The Government has previously committed to setting aside 'windfall' corporation tax receipts to both create the Fund[29] and capitalise it[30]. The Bill provides for periodic transfers from the Exchequer, subject to the approval of Dáil Éireann. Corporation tax receipts, for example, have been revised significantly since the publication of the *Stability Programme Update* (SPU) in April 2018, as detailed in the below Table:

**Table 5: Corporation tax receipts – SPU v *Budget 2019***

| Year | SPU 2018 (April 2018) | Budget 2019 (Oct 2018) | Difference (nominal) | Difference (%) |
|---|---|---|---|---|
| **2018** | €8.5bn | €9.6bn | +€1.1bn | +12.9 |
| **2019** | €8.99bn | €9.5bn | +€495m | +5.5 |
| **2020** | €9.44bn | €9.99bn | +€545m | +5.8 |
| **2021** | €9.9bn | €10.4bn | +€530m | +5.4 |

Source: L&RS calculations, based on the Stability Programme Update 2018 – Table 9 (p.14) and Budget 2019 *Economic and Fiscal Outlook* – Annex 4 (p.58).

The Government has also committed to using 'windfall' tax revenue to pay down the public debt.[31] The Irish Fiscal Advisory Council (IFAC) has also opined that any revenues from a faster than expected recovery in housing construction could take the form of additional contributions to the fund (or provide for faster public debt reduction).[32] However, the Government has not provided any forecasts on potential periodic allocations, or how this may impact on the annual €500m allocation / transfer, if at all. This has been noted by the Oireachtas Parliamentary Budget Office (PBO) which warns in its post-*Budget 2019* analysis:[33]

> "The allocations for the [fund] for 2019-2021 in *Budget 2019* are unchanged from the Stability Programme Update 2018 (at €500 million per annum). This means that the 'Rainy Day' Fund is not being used as a counter-cyclical policy tool."

[28] IFAC (2018) Fiscal Assessment Report, June 2018, pages 31-33.
[29] Department of Finance (2018) 'Summer Economic Statement', 19 June 2018, p.i.
[30] Department of Finance (2018) Budget 2019 *Economic and Fiscal Outlook*, p. 21.
[31] *Ibid*, p. 3.
[32] IFAC (2018) Fiscal Assessment Report, June 2018, p.10.
[33] Oireachtas Parliamentary Budget Office (2018) 'Budget 2019 – Issues for Members of the Houses of the Oireachtas', 22 October 2018.

According to a June 2018 interim report by the Oireachtas Committee on Budgetary Oversight (BOC) the establishment of a Rainy Day or reserve / contingency fund has, in general, received broad support from international and domestic policy experts including the International Monetary Fund (IMF), the European Commission, the OECD, Central Bank of Ireland, and the Irish Fiscal Advisory Council (IFAC).[34] Though the report also noted it was not possible to reach political consensus on the proposal, it highlighted (p.5):

> "… the Committee recognises the importance of ensuring that any RDF (Rainy Day fund) is well designed. The objective and scope of the proposed RDF need to be very clearly defined."

# Principal provisions

The *National Surplus (Reserve Fund for Exceptional Contingencies) Bill 2018* consists of 12 sections. The primary purpose of the Bill is to:

> "…provide the legislative basis for establishment of a new Fund, the National Surplus (Exceptional Contingencies) Reserve Fund. The Fund is intended to be a reserve into which sums will be transferred from the assets of the Ireland Strategic Investment Fund, and from the Exchequer."[35]

This section of the Digest will focus on the following core themes identified in the Bill, specifically those which have not been treated in the policy and legislative context section of the Digest:

- Transfer of initial, reduced and additional amounts to the Fund;
- Non-payment of annual payments / transfers to the Fund in exceptional circumstances; and
- Payment from / drawdown of the Fund;

## Transfer of initial, reduced and additional amounts to the Fund

**Section 5** of the Bill refers to the cash and contingent / near-cash reserves which are to be transferred to seed the new Fund from the Ireland Strategic Investment Fund (ISIF) initially (up to €2bn in 2019) and from the Exchequer in every year from 2019 to 2023 inclusive (€500m). This €500m is referred to as the "prescribed amount" (section 5(3)). However, section 5(5) provides that where an unforeseeable cost arises upon the Exchequer as a result of "a natural or other disaster",[36] this €500m amount may be **reduced** by the amount equal to the cost of that unforeseen event (section 5(6)). The Minister shall, following the making of that reduced payment / transfer, report to Dáil Éireann "in such a manner as the Minister considers appropriate" explaining the reasons for reducing the prescribed amount.

Section 5(4) allows the Minister for Finance discretion to transfer an **additional** sum from the Central Fund (the Exchequer) if approved by Dáil Éireann by way of resolution.

[34] Oireachtas (2018) Interim pre-Budget report, July 2018.
[35] Taken from the Explanatory Memorandum to the Bill.
[36] The Regulatory Impact Analysis (RIA) accompanying the Bill provides further examples including major severe weather event or serious human or animal epidemic disease.

## Non-payment of annual payments / transfers to the Fund in exceptional circumstances

In addition to section 5, **section 6** provides that Dáil Éireann may, on a proposal brought by the Minister no earlier than 1 November of the payment year, pass a resolution authorising the Minister **not to pay** the prescribed transfer amount (€500m) in certain exceptional circumstances, in effect, creating a contingency reserve by this exemption. Section 6(3) limits the justification for this proposal to where a Minister is satisfied on "reasonable grounds" that exceptional circumstances exist and that that payment of the amount would "place an undue burden on the public finances". Exceptional circumstances are defined in section 1 of the Bill has having the same meaning as in section 1 of the *Fiscal Responsibility Act 2012*. In that Act, exceptional circumstances are defined as:

> "(a) A period during which an unusual event outside the control of the State has a major impact on the financial position of the general government, or
> (b) A period of severe economic downturn,
>
> within the meaning of the Stability and Growth Pact."

## Payments from / drawdown of the Fund

**Section 7** proposes to amend the *National Treasury Management Agency (Amendment) Act 2014* to allow the Minister for Finance to give a direction to the NTMA (which is responsible for managing the national debt) to transfer reserves from the Fund to another fund which may be drawn down by the Exchequer in order to:

A. Remedy or mitigate an **event of exceptional circumstances** (i.e. an unusual event outside the control of the State which impacts on the financial position of the government, or a severe economic downturn);
B. Prevent potential serious damage to the **financial system and its continued stability**;
C. Support **major structural reforms** which have direct long-term positive budgetary effects within the meaning of Article 5 of Council Regulation (EC) No. 1466 of 1997 as amended by Regulation (EU) No. 1175 of 2011.[37]

**Section 9** details the criteria for drawdown of the Fund. Subsection (1) states that any payment from the Fund require the successful passage of a resolution by Dáil Éireann, following a proposal by the Minister. The Minister is however limited in the circumstances under which a proposal may

[37] These regulations refer to the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies at EU level. On the basis of assessments by the European Commission and the Economic and Financial Committee, the Council examines the medium-term budgetary objectives presented by countries in their stability / convergence programmes (in Ireland's case, a stability programme). Under Council Regulation (EC) No. 1466 of 1997, when examining and monitoring the stability and convergence programmes and in particular the medium-term budgetary objective or the targeted adjustment path towards it, the Council of the European Union is obliged to consider the implementation of major structural reforms which have direct long-term cost-saving effects, including by raising potential growth, and therefore a verifiable impact on the long-term sustainability of public finances. To this end, stability and convergence programmes should provide a description of major structural reforms and a comprehensive and detailed assessment of their quantitative effects on the budgetary position over time.

by brought to the House. Under subsection (2) a proposal shall not be made unless the Minister is satisfied on reasonable grounds that a proposal is necessary to order to achieve one or more of the matters detailed above (A to C). Where the Minister is so satisfied, he/she must consult with the Minister for Public Expenditure and Reform and take account of that Minister's views before a decision to make a proposal is made (subsection 3).[38]

Section 9(4)-(5) provides contingency arrangements where a drawdown is required but Dáil Éireann is not sitting. Subsection (4) provides that the Minister for Finance may, with the prior approval of the Government, make payments from the Fund to the Exchequer. Subsection (5) provides that where payments are made in these circumstances, the Minister must make a report to Dáil Éireann at the next sitting following payment as to (a) the fact of the making of the payment and (b) the reason for it.

**Section 10** provides that where Dáil Éireann approves payments from the Fund (or, if Dáil Éireann is not sitting, the Government), the Minister must make the payment of the amount specified in the resolution (or the decision of the Government giving approval) to the Exchequer.

[38] Since June 2017, the Departments of Finance and Public Expenditure and Reform have been combined and a single senior Minister (Paschal Donohue T.D.) represents both. See: RTÉ (2017) '*Taoiseach combines Finance and Public Expenditure Departments*', 15 June 2017.

# Appendix 1: Parliamentary Budget Office (PBO) conclusions – purpose of the 'Rainy Day' fund

**Table 6: Purpose of the 'Rainy Day' fund – PBO conclusions**

| | A. Counter-cyclical stabilisation fund | B. Contingency fund for specific events | C. Deposit mechanism / contingency reserve |
|---|---|---|---|
| **Parliamentary Budget Office (PBO) conclusions** (December 2017) | ▪ An automatic mechanism be set out in legislation with regard to resourcing the fund. This could be where revenue above a set limit for specific taxes (e.g. Corporation Tax, Capital Gains Tax, certain Stamp Duties) be set aside for the fund.<br>▪ Legislation should detail when and how the fund could be drawn down – for example it could specify that the fund could only be used to maintain or increase capital expenditure in the event of an economic downturn (as also defined in legalisation);<br>▪ The size of the fund should not be capped as to do so would reduce capacity to smooth the business cycle and maintain capital expenditure;<br>▪ Deploying the fund to support capital expenditure could rely on the existent clauses which permit breaches of the Stability and Growth Pact, e.g. those involving temporary or one off expenditure, a severe economic downturn, or investment. However, the Government should explore with the European Commission if changes to the calculation of the structural balance and Expenditure Benchmark could be made to accommodate the use of the fund. | ▪ It should not be called the 'rainy day fund' as this term is more appropriate for a fund that is used as a countercyclical policy tool.<br>▪ The size of the fund be set at a suitable level in consultation with relevant stakeholders.<br>▪ The circumstances for drawing down the fund be clearly outlined in terms of the scale and nature of the demands on the fund.<br>▪ Restrictions should be placed on the fund in order to maintain compliance with the Stability and Growth Pact (i.e. the one-off nature of the event/expenditure and the scale of the expenditure). | ▪ The contingency reserve be formally made a part of the Government Expenditure Ceilings and a Vote in the Estimates process.<br>▪ That expenditure from the contingency reserve be made by way of Supplementary Estimate, i.e. Dáil Éireann approval of monies disbursed from a new dedicated Vote.<br>▪ There are clear guidelines on what is considered to be unexpected expenditure within the year.<br>▪ That in the event that the rainy day fund is set up as a counter-cyclical policy tool that it is funded by a set formula on the revenue side (see above) and the Contingency Reserve is used as an additional source of resources for the fund and not the only source. |

Source: PBO (2017) Rainy Day Fund – Briefing Paper 3 of 2017, December 2017, pages 3-5.


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