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*Number 6 of 2020*

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

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

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[No. 6.]

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[2020.]

*National Oil Reserves Agency (Amendment) and  
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[No. 6.]

ACTS REFERRED TO

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*Number 6 of 2020*

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

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An Act to extend the purposes for which the levy on relevant disposals of petroleum products is paid; to amend and extend the objects, functions and powers of the National Oil Reserves Agency; to set the rate of the levy on relevant disposals of petroleum products; to make provision for the Minister for Communications, Climate Action and Environment to give a direction to the National Oil Reserves Agency in relation to the payment by it of an amount of the proceeds of the levy on relevant disposals of petroleum products collected and recovered into the Climate Action Fund; to establish the Climate Action Fund; to set the rate of the biofuel levy; to make certain other amendments in relation to biofuel obligations; for those purposes to amend and extend the National Oil Reserves Agency Act 2007; to provide for the provision by the National Treasury Management Agency of central treasury services to the National Oil Reserves Agency and Irish Water and for that purpose to amend the National Treasury Management Agency (Amendment) Act 2000; and to provide for related matters.

[29th July, 2020]

**Be it enacted by the Oireachtas as follows:**

PART 1

PRELIMINARY AND GENERAL

**Short title and commencement**

1. (1) This Act may be cited as the National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

**Definitions**

2. In this Act—

“Minister” means the Minister for Communications, Climate Action and Environment;

“Principal Act” means the National Oil Reserves Agency Act 2007.

### **Revocations**

3. 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) are revoked.

## PART 2

### AMENDMENTS TO PRINCIPAL ACT

#### **Amendment of section 2 of Principal Act**

4. Section 2 of the Principal Act is amended by the insertion of the following definition:

“ ‘Climate Action Fund’ means the fund established under section 37B;”.

#### **Amendment of section 8 of Principal Act**

5. Section 8 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (c):

“(c) (i) collecting and recovering the levy, and

(ii) paying into the Climate Action Fund, out of the proceeds of the levy collected and recovered, such amount as is specified by the Minister pursuant to a direction (if any) given under section 37A;”,

and

- (b) in subsection (3)—

(i) in paragraph (i), by the substitution of “any body corporate,” for “any body corporate, and”,

(ii) in paragraph (j), by the substitution of “under subsection (1)(a), and” for “under subsection (1)(a).”, and

- (iii) by the insertion of the following paragraph after paragraph (j):

“(k) to pay into the Climate Action Fund, out of the proceeds of the levy collected and recovered, such amount as is specified by the Minister pursuant to a direction (if any) given under section 37A.”.

#### **Amendment of section 14 of Principal Act**

6. Section 14 of the Principal Act is amended, in subsection (8), by the substitution of “the



proceeds of the levy collected and recovered and the proceeds of the biofuel levy collected and recovered” for “the levy and biofuel levy”.

**Amendment of section 16 of Principal Act**

7. Section 16 of the Principal Act is amended, in subsection (12), by the substitution of “the proceeds of the levy collected and recovered and the proceeds of the biofuel levy collected and recovered” for “the levy and biofuel levy”.

**Amendment of section 18 of Principal Act**

8. Section 18 of the Principal Act is amended, in subsection (2), by the substitution of “the proceeds of the levy collected and recovered and the proceeds of the biofuel levy collected and recovered” for “the levy and biofuel levy”.

**Amendment of section 19 of Principal Act**

9. Section 19 of the Principal Act is amended, in subsection (4), by the substitution of “the proceeds of the levy collected and recovered and the proceeds of the biofuel levy collected and recovered” for “the levy and biofuel levy”.

**Amendment of section 21 of Principal Act**

10. Section 21 of the Principal Act is amended, in subsection (3), by the substitution of “the proceeds of the levy collected and recovered and the proceeds of the biofuel levy collected and recovered” for “the levy and biofuel levy”.

**Amendment of section 31A of Principal Act**

11. Section 31A of the Principal Act is amended, in subsection (2)(a)(i), by the deletion of “of the Principal Act”.

**Amendment of section 36 of Principal Act**

12. Section 36 of the Principal Act is amended—
- (a) by the substitution of the following for “ ‘expenses’ means”:
    - “ ‘expenses’ other than in section 37B means”,
  - (b) in paragraph (g), by the substitution of “collecting or recovering the levy” for “collecting the levy”, and
  - (c) in paragraph (gb), by the substitution of “collecting or recovering the biofuel levy” for “collecting the biofuel levy”.

**Amendment of section 37 of Principal Act**

13. Section 37 of the Principal Act is amended—

- (a) by the substitution of the following subsection for subsection (1):

“(1) For the purposes of—

- (a) meeting expenses properly incurred, or likely to be so incurred, by the Agency and each designated subsidiary in performing functions under this Act, and
- (b) contributing to the funding of the Climate Action Fund in accordance with this Act,

oil companies and oil consumers, shall, in accordance with this Part and the regulations under section 44 pay to the Agency in each month a levy on their relevant disposals of petroleum products in the preceding month.”,

and

- (b) by the insertion of the following subsection after subsection (1):

“(1A) The rate of the levy shall be €0.02 per litre of relevant disposals of petroleum products.”.

#### **Payment into Climate Action Fund by direction of Minister**

14. The Principal Act is amended by the insertion of the following section after section 37:

#### **“Payment into Climate Action Fund by direction of Minister**

**37A.** (1) In this section—

‘combined actual and estimated income of the Agency’ means the combined actual and estimated income of the Agency in the financial year in which it is proposed to give a direction under subsection (2) as determined in accordance with subsection (4);

‘combined actual and estimated expenses of the Agency’ means the combined actual and estimated expenses of the Agency in the financial year in which it is proposed to give a direction under subsection (2) as determined in accordance with subsection (5);

‘financial year’ means the financial year of the Agency.

- (2) Subject to subsection (3), the Minister may, in each financial year commencing with the financial year in which the *National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020* is commenced, following consultation with the Agency, the Minister for Public Expenditure and Reform and the Minister for Finance, give a direction to the Agency to pay into the Climate Action Fund in that financial year the amount specified in the direction.
- (3) The amount which the Minister may specify in a direction under subsection (2) shall be an amount—

- (a) that represents part of the sum of—
    - (i) the proceeds of the levy collected and recovered in that part of the financial year falling before the date on which the direction is to be given other than the proceeds of the levy collected and recovered before the commencement of the *National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020*, and
    - (ii) the proceeds of the levy estimated, having regard to the matters referred to in subsection (4)(b)(i) to (iv), to be collected and recovered during that part of the financial year falling after the date on which the direction is to be given,
  - (b) in respect of which the Minister is reasonably satisfied that, when the amount is deducted from the combined actual and estimated income of the Agency, such deduction will not result in the remaining combined actual and estimated income of the Agency being insufficient to meet the combined actual and estimated expenses of the Agency, and
  - (c) that the Minister considers is appropriate to be so specified having regard to the expenses referred to in subsection (6).
- (4) (a) The combined actual and estimated income of the Agency shall be the sum of—
- (i) the amount of money standing to the credit of the accounts (if any) of the Agency at any financial institution in the State and at the National Treasury Management Agency,
  - (ii) the proceeds of the levy estimated to be collected and recovered during that part of the financial year falling after the date on which a direction is given, and
  - (iii) the proceeds of the biofuel levy estimated to be collected and recovered during that part of the financial year falling after the date on which a direction is given,
- determined in accordance with paragraph (b).
- (b) For the purpose of determining the combined actual and estimated income of the Agency, the Minister shall have regard to—
    - (i) the information contained in the Agency’s strategy statement for the time being,
    - (ii) the information provided by the Agency to him or her in that regard during the consultation by him or her with the Agency referred to in subsection (2) or pursuant to a request by him or her under this section, or otherwise,

- (iii) the proceeds of the levy collected and recovered in the immediately preceding financial year, and
  - (iv) where available, the information presented to him or her under section 29.
- (5) (a) The combined actual and estimated expenses of the Agency shall be the sum of—
  - (i) the expenses properly incurred by the Agency and each designated subsidiary in the financial year in which the direction is to be given, but before the date on which it is given, in performing its functions under this Act, and which have not been paid, and
  - (ii) the expenses of the Agency and each designated subsidiary in performing its functions under this Act estimated to be likely to be properly incurred during that part of the financial year falling after the date on which a direction is given,  
determined in accordance with paragraph (b).
- (b) For the purpose of determining the combined actual and estimated expenses of the Agency, the Minister shall have regard to—
  - (i) the information contained in the Agency's strategy statement for the time being,
  - (ii) the information provided by the Agency to him or her in that regard during the consultation by him or her with the Agency referred to in subsection (2) or pursuant to a request by him or her under this section, or otherwise,
  - (iii) the expenses of the Agency and of each designated subsidiary in the immediately preceding financial year, and
  - (iv) where available, the information presented to him or her under section 29.
- (6) For the purpose of subsection (3)(c), the expenses to which the Minister shall have regard are expenses estimated by the Agency as being likely to be properly incurred by it and each designated subsidiary in a financial year subsequent to that in which the direction is to be given and which are identified by the Agency in its strategy statement for the time being or in the consultations by the Minister with the Agency referred to in subsection (2) or in information provided to the Minister pursuant to a request by him or her under this section, or otherwise.
- (7) A direction under this section shall be given in writing and may provide for the payment of the amount specified in the direction by

one payment or by payment by instalments, to be paid in such amounts and at such time or times as may be specified in the direction.

- (8) (a) Subject to paragraph (b), a payment by the Agency in accordance with subsection (7) shall be made out of the moneys standing to the credit of any account of the Agency at any financial institution in the State or at the National Treasury Management Agency which represent the proceeds of the levy collected and recovered at the time the payment is made.
- (b) Any moneys referred to in paragraph (a) which represent the proceeds of the levy collected and recovered before the commencement of the *National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020* shall not form part of any payment into the Climate Action Fund under this section.
- (9) (a) Without prejudice to section 30, the Minister may request the Agency to provide him or her with information in relation to such matters as he or she may specify which he or she considers necessary or expedient for the performance of his or her functions under this section.
- (b) Information requested by the Minister under paragraph (a) shall be provided to him or her by the Agency and shall be provided in such form and within such period as the Minister may direct.
- (10) The Agency shall comply with a direction given by the Minister under this Act.”.

### **Climate Action Fund**

15. The Principal Act is amended by the insertion of the following section after section 37A:

#### **“Climate Action Fund**

- 37B.** (1) There shall stand established on the commencement of the *National Oil Reserves Agency (Amendment) and Provision of Central Treasury Services Act 2020* a fund which shall be known as the ‘Climate Action Fund’.
- (2) Subject to subsection (3), the Minister shall manage and control the Climate Action Fund.
- (3) (a) The Minister may by order delegate the management and control of the Climate Action Fund and any other functions under this section related to such management and control to a specified person.
- (b) An order under paragraph (a) may contain such ancillary and incidental provisions as the Minister considers necessary or expedient for the purposes of the delegation effected by the order.

- (c) The Minister may give directions or guidelines to the person to whom a delegation is made under paragraph (a) in relation to the performance by the person of the functions delegated to it under the order and that person shall comply with any such directions and perform those functions in accordance with any such guidelines.
- (d) The Minister shall before giving directions or guidelines under paragraph (c) consult with such other Minister of the Government (if any) who he or she considers appropriate.
- (4) The Climate Action Fund shall consist of such accounts as the Minister may determine.
- (5) The Minister shall keep all proper and usual accounts of all moneys paid into the Climate Action Fund and disbursements from the Climate Action Fund.
- (6) As soon as may be after the end of each financial year, the Minister shall submit the accounts of the Climate Action Fund to the Comptroller and Auditor General for audit and the Minister shall cause a copy of the accounts as so audited together with a copy of the report of the Comptroller and Auditor General thereon to be laid before each House of the Oireachtas.
- (7) Subject to, and in accordance with a direction (if any) of the Minister given under section 37A, there shall be paid by the Agency into the Climate Action Fund the amount specified in the direction.
- (8) The Minister may, out of moneys provided by the Oireachtas or other sources, pay into the Climate Action Fund in any financial year such amount as he or she determines, with the consent of the Minister for Public Expenditure and Reform, in relation to that financial year.
- (9) Without prejudice to subsection (13), the Minister may from time to time pay out of the Climate Action Fund such amounts of moneys as he or she considers appropriate for any or all of the following purposes:
  - (a) to support projects that seek to reduce, or support the reduction of, greenhouse gas emissions in the State;
  - (b) to support projects that seek to increase the production, or use, of renewable energy in the State;
  - (c) to support projects that seek to improve energy efficiency in the State;
  - (d) to support initiatives involving potentially innovative solutions to—
    - (i) reduce greenhouse gas emissions in the State,
    - (ii) increase the production or use of renewable energy in the State,

- (iii) increase energy efficiency in the State;
  - (e) to support research in relation to—
    - (i) reducing greenhouse gas emissions in the State,
    - (ii) increasing the production, or use, of renewable energy in the State,
    - (iii) increasing energy efficiency in the State;
  - (f) to support projects and initiatives in regions in the State and within sectors of the economy impacted by the transition to a low carbon economy.
- (10) (a) Without prejudice to the generality of subsection (9), the Minister, or such other person as he or she may nominate, may invite proposals to avail of moneys from the Climate Action Fund for any or all of the purposes set out in paragraphs (a) to (f) of subsection (9).
- (b) An invitation under paragraph (a) shall be published on the website of the Department of Communications, Climate Action and Environment and shall outline the criteria to be used to assess proposals.
- (11) Any payment of moneys out of the Climate Action Fund under any of paragraphs (a) to (f) of subsection (9) shall be made to the person or persons who carry on, or as the case may be, carried on the project, initiative or research, as the case may be, the principal purpose of which is, in the opinion of the Minister, the particular purpose in respect of which that payment is made.
- (12) Without prejudice to the preceding provisions of this section, no payment shall be made out of the Climate Action Fund in respect of a project, initiative or research, as the case may be, where the project, initiative or research is carried on otherwise than in accordance with such guidelines as may be prepared by the Minister, after consultation with the Minister for Public Expenditure and Reform, for that purpose and which are published on the website of the Department of Communications, Climate Action and Environment.
- (13) (a) The Minister may from time to time pay out of the Climate Action Fund such an amount of moneys as he or she determines for the purpose of defraying, in whole or in part, the expenses incurred on or after the establishment of the Fund, by him or her or by any person to whom functions are delegated under subsection (3) in connection with the administration of the Fund.
- (b) Any amount of moneys paid out of the Climate Action Fund under paragraph (a) shall be paid into, or disposed of for the benefit of,

the Exchequer in such manner as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

- (14) The Minister may establish a committee to advise him or her with respect to the performance by him or her of functions under this section and a committee so established may advise the Minister accordingly.
- (15) In this section ‘financial year’ means the financial year of the Climate Action Fund.”.

#### **Amendment of section 40 of Principal Act**

16. Section 40 of the Principal Act is amended, in subsection (2), by the substitution of the following paragraph for paragraph (b):

“(b) the rate of levy specified in section 37(1A).”.

#### **Amendment of section 41 of Principal Act**

17. Section 41 of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) the rate of levy specified in section 37(1A).”.

#### **Amendment of section 44 of Principal Act**

18. Section 44 of the Principal Act is amended—

- (a) in subsection (1), by the deletion of paragraph (a), and
- (b) by the deletion of subsections (2) to (6).

#### **Amendment of section 44B of Principal Act**

19. Section 44B of the Principal Act is amended, in paragraph (b) of subsection (3)—

- (a) by the insertion of the following subparagraph after subparagraph (i):

“(ia) the Minister for Finance,”,

and

- (b) by the substitution of the following subparagraph for subparagraph (iii):

“(iii) the Minister for Transport, Tourism and Sport.”.

#### **Amendment of section 44D of Principal Act**

20. Section 44D of the Principal Act is amended, in paragraph (b) of subsection (4)—

- (a) by the insertion of the following subparagraph after subparagraph (i):

“(ia) the Minister for Finance,”,



and

- (b) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the Minister for Transport, Tourism and Sport.”

**Amendment of section 44G of Principal Act**

21. Section 44G of the Principal Act is amended, in paragraph (b) of subsection (11), by the substitution of the following subparagraph for subparagraph (iv):

“(iv) the Minister for Transport, Tourism and Sport.”

**Amendment of section 44I of Principal Act**

22. Section 44I of the Principal Act is amended in subsection (6)—

- (a) in paragraph (a), by the substitution of “Subject to paragraphs (b) and (c)” for “Subject to paragraph (b)”,
- (b) in paragraph (b), by the substitution of the following for “A biofuel obligation certificate referred to in paragraph (a)”:

“For obligation periods beginning before 1 January 2020, a biofuel obligation certificate referred to in paragraph (a)”

and

- (c) by the insertion of the following paragraph after paragraph (b):

“(c) For obligation periods beginning on or after 1 January 2020, a biofuel obligation certificate referred to in paragraph (a) may not be counted towards the discharge of more than 15 per cent of the amount of the biofuel obligation notified to the obligated party under subsection (1) in respect of that subsequent obligation period.”

**Amendment of section 44J of Principal Act**

23. Section 44J of the Principal Act is amended, in paragraph (b) of subsection (7)—

- (a) by the insertion of the following subparagraph after subparagraph (i):

“(ia) the Minister for Finance,”

and

- (b) by the substitution of the following subparagraph for subparagraph (ii):

“(ii) the Minister for Transport, Tourism and Sport.”

**Amendment of section 44N of Principal Act**

24. Section 44N of the Principal Act is amended by the insertion of the following subsection

after subsection (1):

“(1A) The rate of the biofuel levy shall be €0.001 per litre of relevant disposals of biofuels.”.

**Amendment of section 44P of Principal Act**

25. Section 44P of the Principal Act is amended, in subsection (2), by the substitution of the following paragraph for paragraph (b):

“(b) the rate of biofuel levy specified in section 44N(1A).”.

**Amendment of section 44Q of Principal Act**

26. Section 44Q of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) the rate of biofuel levy specified in section 44N(1A).”.

**Amendment of section 44T of Principal Act**

27. Section 44T of the Principal Act is amended—

- (a) in subsection (1) by the deletion of paragraph (a), and
- (b) by the deletion of subsections (2), (3) and (4).

PART 3

AMENDMENTS TO NATIONAL TREASURY MANAGEMENT AGENCY (AMENDMENT) ACT 2000

**Amendment of section 18 of National Treasury Management Agency (Amendment) Act 2000**

28. Section 18 of the National Treasury Management Agency (Amendment) Act 2000 is amended in the definition of “designated body” by the insertion of the following paragraphs after paragraph (eg):

- “(eh) the National Oil Reserves Agency, and
- (ei) Irish Water.”.