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*Number 1 of 2026*

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**Credit Review Act 2026**

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## **CREDIT REVIEW ACT 2026**

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## **CREDIT REVIEW ACT 2026**

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An Act to provide for the establishment of a body to be known as An tSeirbhís um Athbhreithniú Creidmheasa and to provide for its functions; to provide for the review by that body of certain credit decisions; to provide for the appointment of a chief executive officer of that body to be known as the Credit Reviewer; to provide for the repeal of section 210 of the National Asset Management Agency Act 2009 and the revocation of guidelines issued under that section; for those purposes to provide for consequential amendments of other enactments; and to provide for related matters.

[3rd February, 2026]

**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 Credit Review Act 2026.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

##### **Interpretation**

2. (1) In this Act—
  - “Act of 2014” means the Companies Act 2014;
  - “alternative arrangement”, in relation to a credit facility agreement, means an agreement, governed by the law of the State, under which the borrower and the relevant person agree to vary or replace, in whole or in part, the terms and conditions of the credit facility agreement;
  - “application”, other than in *sections 20, 21, 25 to 30 and 32*, means an application by a borrower to enter a credit facility agreement or an alternative arrangement with a relevant person and “applicant” shall be construed accordingly;

“Bank” means the Central Bank of Ireland;

“borrower” means an SME or a farmer, acting in their capacity as such SME or farmer, as the case may be;

“constructive refusal” means—

- (a) an offer by a relevant person to enter into a credit facility agreement or an alternative arrangement on terms and conditions that the applicant reasonably considers are so onerous as to amount to a refusal,
- (b) the failure by a relevant person within 15 working days of receipt of an application to—
  - (i) make a decision on the application and give notice of the decision to the applicant, or
  - (ii) give notice to the applicant that assessment of the application will take longer than 15 working days and specifying the expected period within which a decision on the application will be made and notified to the applicant,

or

- (c) the failure by a relevant person to make a decision on an application and notify the decision to the applicant within a period specified in a notice referred to in *paragraph (b)(ii)*;

“credit” means a deferred payment, cash loan or other similar financial accommodation, including (but not limited to) hire-purchase, invoice discounting and the letting of goods;

“credit decision”, in relation to a borrower, means any of the following decisions made by a relevant person:

- (a) refusal of an application by the borrower to enter a credit facility agreement;
- (b) constructive refusal of an application by the borrower to enter a credit facility agreement;
- (c) withdrawal from the borrower of a credit facility granted pursuant to a credit facility agreement;
- (d) reduction of the amount of credit to be made available to the borrower pursuant to a credit facility agreement or an alternative arrangement;
- (e) refusal of an application by the borrower to enter an alternative arrangement;
- (f) constructive refusal of an application by the borrower to enter an alternative arrangement;
- (g) withdrawal from the borrower of an alternative arrangement in relation to a credit facility agreement;

“credit facility” means credit of an amount not less than the prescribed minimum amount and not greater than the prescribed maximum amount;

“credit facility agreement” means an agreement, governed by the law of the State, under which a relevant person grants or promises to grant a credit facility to a borrower;

“credit institution” means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013<sup>1</sup>, other than a credit union registered as such under the Credit Union Act 1997 or deemed to be so registered by virtue of section 5(3) of that Act;

“Credit Reviewer”, other than in *section 11(4)* and *Part 4*, has the meaning assigned to it by *section 11(1)*;

“establishment day” means the day appointed under *section 8*;

“farmer” means a person engaged in primary production (within the meaning of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002<sup>2</sup>) in the State;

“Guidelines” means 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 (S.I. No. 127 of 2010);

“local authority” has the same meaning as it has in the Local Government Act 2001;

“Minister” means the Minister for Finance;

“prescribe” means prescribe by regulations made by the Minister;

“prescribed maximum amount” means an amount prescribed by the Minister under *paragraph (b)* of *section 3(1)*;

“prescribed minimum amount” means an amount prescribed by the Minister under *paragraph (a)* of *section 3(1)*;

“regulated financial service provider” has the same meaning as it has in the Central Bank Act 1942;

“relevant activity” means entering into, or offering to enter into, credit facility agreements or alternative arrangements with borrowers;

“relevant person” means—

- (a) a credit institution carrying on a relevant activity, or
- (b) a member of a class of regulated financial service providers prescribed under *subsection (2)* carrying on a relevant activity;

“Service” has the meaning assigned to it by *section 9*;

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<sup>1</sup> OJ No. L 176, 27.6.2013, p. 1

<sup>2</sup> OJ No. L 31, 1.2.2002, p. 1

“SME” means a micro, small or medium-sized enterprise (within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003<sup>3</sup>) carrying on business in the State.

- (2) The Minister may, after consultation with the Bank, the Service and the Competition and Consumer Protection Commission, prescribe for the purposes of *paragraph (b)* of the definition of “relevant person” in *subsection (1)* a class of regulated financial service providers that are authorised to provide credit facilities to borrowers.
- (3) When deciding whether to prescribe a class of regulated financial service providers under *subsection (2)*, the Minister shall have regard to—
  - (a) the extent to which demand by borrowers for credit is being met by regulated financial service providers,
  - (b) the importance to borrowers and the economy of the State of particular types of credit provided by the class of regulated financial service providers concerned, and
  - (c) the amount of credit provided by that class of regulated financial service providers.

#### **Prescribed minimum and maximum amounts**

3. (1) Subject to *subsections (2), (3) and (4)*, the Minister shall, for the purposes of the definition of “credit facility” in *section 2*, prescribe—
  - (a) a minimum amount, and
  - (b) a maximum amount.
- (2) An amount prescribed under *paragraph (a)* of *subsection (1)* shall be not less than €1,000.
- (3) An amount prescribed under *paragraph (b)* of *subsection (1)* shall be not greater than €5,000,000.
- (4) In prescribing an amount under *paragraph (a)* or *(b)* of *subsection (1)*, the Minister shall have regard to—
  - (a) the level of demand by borrowers for credit of amounts ranging between the amount proposed to be prescribed under *paragraph (a)* of *subsection (1)* and the amount proposed to be prescribed under *paragraph (b)* of *subsection (1)* and the extent to which such demand is being met,
  - (b) the importance to borrowers and the economy of the State of borrowers being able to obtain credit of amounts ranging between the amount proposed to be prescribed under *paragraph (a)* of *subsection (1)* and the amount proposed to be prescribed under *paragraph (b)* of *subsection (1)*,
  - (c) the amounts of credit being provided to borrowers and any trends in the amounts so provided,

<sup>3</sup> OJ No. L 124, 20.5.2003, p. 36

- (d) the economic conditions prevailing in the market for provision of credit to borrowers, and
- (e) the need to ensure the effective and efficient use of resources available to the Service.

#### **Regulations**

4. (1) The Minister may make regulations for the purposes of this Act, including regulations for prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed, or for the purpose of enabling any provision of this Act to have full effect.
- (2) Regulations under this Act may contain such incidental or supplementary provisions that appear to the Minister to be expedient for the purposes of the regulations.
- (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

#### **Service of notices and other documents**

5. A notice, notification or other document that is required to be sent or given to a person or body under this Act may be sent or given to the person or body in one of the following ways:
- (a) by delivering it to the person or body;
  - (b) by addressing it to the person or body and leaving it at the address at which he or she ordinarily resides or is located or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it to the person or body by post in a prepaid registered letter to the address at which he or she ordinarily resides or is located or, in a case in which an address for service has been furnished, to that address;
  - (d) by sending it to an email address, fax number or other electronic contact point for the person, where a record that the notice or other document has been sent is made by the email system, fax machine or other electronic system used.

#### **Repeal and revocations**

6. (1) Section 210 of the National Asset Management Agency Act 2009 is repealed.
- (2) The following statutory instruments are revoked:
- (a) 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 (S.I. No. 127 of 2010);

- (b) National Asset Management Agency Act 2009 (Section 210) Amending Guidelines 2011 (S.I. No. 354 of 2011);
- (c) National Asset Management Agency Act 2009 (Section 210) Amending Guidelines 2013 (S.I. No. 374 of 2013).

### **Expenses**

7. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys provided by the Oireachtas.

## **PART 2**

### **AN tSEIRBHÍS UM ATHBHREITHNIÚ CREIDMHEASA**

### **Establishment day**

8. The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

### **Establishment of Service**

9. (1) On the establishment day there shall stand established a body to be known as An tSeirbhís um Athbhreithniú Creidmheasa (in this Act referred to as the “Service”), to perform the functions conferred on it by this Act.
- (2) The Service shall be a body corporate with perpetual succession and an official seal and shall have the power to sue, and may be sued, in its corporate name and may, with the consent of the Minister and the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, acquire, hold and dispose of land, an interest in land or any other property.
- (3) The Service shall—
- (a) subject to this Act, be independent in the exercise of its functions, and
  - (b) have all such powers as are necessary or expedient for, or incidental to, the performance of its functions.
- (4) The seal of the Service may be authenticated by—
- (a) the signature of the Credit Reviewer, or
  - (b) the signature of a member of the staff of the Service authorised by the Credit Reviewer to act in that behalf.

- (5) Judicial notice shall be taken of the seal of the Service and any document purporting to be an instrument made by, and to be sealed with the seal of, the Service shall, unless the contrary is shown, be received in evidence and be deemed to be such document without further proof.
- (6) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Service by any person generally or specially authorised by the Service in that behalf.
- (7) The Service may enter into agreements with other persons for the purposes of the performance of the functions of the Service.

### Functions of Service

**10.** The functions of the Service shall be to—

- (a) review credit decisions of relevant persons in accordance with *section 26*,
- (b) review the lending practices, activities and policies of relevant persons in accordance with *section 30*,
- (c) prepare and publish information relevant to borrowers on matters relating to markets for the provision of credit, and
- (d) perform any other function conferred on it under any other provision of this Act or any other enactment.

### Credit Reviewer

- 11.** (1) The Service shall have a chief executive officer who shall be known as the “Credit Reviewer” (in this Act referred to as the “Credit Reviewer”).
- (2) Subject to *subsection (4)*, the Minister shall appoint a person recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004 to be the Credit Reviewer for the purposes of this Act.
  - (3) An appointment under *subsection (2)* shall not be made unless the person who the Minister proposes to appoint possesses, in the opinion of the Minister, sufficient expertise in, or experience of, one or more of the following areas, namely, banking and financial services, the market for the provision of credit or the regulation of financial markets.
  - (4) A person who, immediately before the establishment day, stood appointed as the Credit Reviewer for the purposes of the Guidelines shall, on the establishment day, become and be the Credit Reviewer for the purposes of this Act, subject to no less favourable terms and conditions as applied to the appointment, and shall continue as Credit Reviewer for the purposes of this Act for the remainder of the term of that appointment, unless he or she sooner dies, resigns from office or otherwise ceases to hold office.
  - (5) The appointment of a person as Credit Reviewer shall be subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and

term of office) as the Minister, with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, may determine.

- (6) The Credit Reviewer shall not, without the consent of the Minister, hold any other office or employment in respect of which remuneration is payable or carry on any business, trade or profession.
- (7) The Credit Reviewer shall be a member of staff of the Service.
- (8) The Credit Reviewer may resign from office by notice in writing given or sent to the Minister stating his or her intention to do so and the resignation shall take effect from—
  - (a) a date that is not less than 3 months after the date of the notice, or
  - (b) such other date as may be agreed with the Minister.

### **Functions of Credit Reviewer**

- 12.** (1) The Credit Reviewer shall be the accounting officer, for the purposes of the Comptroller and Auditor General Acts 1866 to 1998, in relation to the appropriation accounts of the Service.
- (2) The Service shall act through, and its functions shall be performed in the name of the Service by, the Credit Reviewer or another member of staff of the Service duly authorised in that behalf by the Credit Reviewer.
  - (3) The Credit Reviewer shall—
    - (a) manage and control generally the staff, administration and business of the Service,
    - (b) perform such functions as are specified in this Act to be functions of the Service,
    - (c) be responsible to the Minister for the performance of his or her functions,
    - (d) provide the Minister with such information relating to the performance of his or her functions and the implementation of the Minister's policies and priorities, in so far as those policies and priorities relate to such functions, as the Minister may request, and
    - (e) perform such other functions (if any) as may be authorised under this Act or any other enactment.
  - (4) The Credit Reviewer shall, in the performance of his or her functions under this Act, have regard to the Minister's policies and priorities in so far as those policies and priorities relate to such functions.
  - (5) The functions of the Credit Reviewer may be performed by any one or more of the members of staff of the Service as may from time to time be designated for that purpose by the Credit Reviewer or, when the position of Credit Reviewer is vacant, by the Minister.

**Ineligibility for appointment, disqualification and removal from office**

- 13.** (1) A person shall not be eligible for appointment as Credit Reviewer and a person shall cease to hold office as Credit Reviewer, if he or she—
- (a) is adjudicated bankrupt and such bankruptcy has not been annulled or discharged,
  - (b) makes a composition or arrangement with creditors,
  - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
  - (d) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment,
  - (e) is convicted of an offence involving fraud or dishonesty,
  - (f) has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
  - (g) is subject, or is deemed to be subject, to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act.
- (2) The Minister may at any time remove the Credit Reviewer from office if, in the opinion of the Minister—
- (a) he or she has committed stated misbehaviour,
  - (b) he or she has become incapable through ill health of effectively performing his or her functions,
  - (c) his or her removal is necessary or expedient for the effective performance by the Service of its functions, or
  - (d) he or she has a conflict of interest of such significance that he or she should cease to hold office.
- (3) Where the Credit Reviewer is removed from office under this section, the Minister shall cause to be laid before each House of the Oireachtas a statement of the reasons for the removal.

**Membership of either House of Oireachtas, European Parliament or local authority**

- 14.** (1) Where the Credit Reviewer is—
- (a) nominated to be a member of Seanad Éireann,
  - (b) elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament, or

- (d) elected or co-opted to be a member of a local authority,  
he or she shall thereupon cease to be the Credit Reviewer.
- (2) Where a member of the staff of the Service (other than the Credit Reviewer) is—
  - (a) nominated to be a member of Seanad Éireann,
  - (b) elected to be a member of either House of the Oireachtas or to be a member of the European Parliament,
  - (c) regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament, or
  - (d) elected or co-opted to be a member of a local authority,he or she shall thereupon stand seconded from employment by the Service and shall not be paid by, or entitled to receive from, the Service any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been so elected, as the case may be, and ending when such person ceases to be a member of either such House or a representative in such Parliament, or a member of such local authority.
- (3) A person who is for the time being—
  - (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
  - (b) a member of the European Parliament, or
  - (c) entitled under the standing orders of a local authority to sit as a member thereof,shall, while he or she is so entitled or is such a member, be disqualified for appointment as the Credit Reviewer or a member of the staff of the Service.
- (4) A period mentioned in *subsection (2)* shall not, for the purposes of any superannuation benefit, be reckoned as service with the Service.

### **Staff of Service**

- 15.** (1) The Credit Reviewer may, subject to the approval of the Minister given with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, appoint such and so many persons to be members of the staff of the Service as he or she may from time to time determine and may determine their duties.
- (2) Appointments under *subsection (1)* shall be subject to the Public Service Management (Recruitment and Appointments) Act 2004.
- (3) The Service, subject to the approval of the Minister given with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, shall determine—

- (a) the terms and conditions of employment (including terms and conditions relating to remuneration, allowances and expenses) of staff appointed under this section, and
  - (b) the grades of such staff and the numbers of staff at each grade.
- (4) A member of staff of a public body may, with the consent of the Minister, the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, the public body concerned and the member of staff concerned, be seconded to be a member of staff of the Service for the duration of the secondment.
- (5) A civil servant may, with the consent of the Minister, the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, the appropriate authority concerned and the member of staff concerned, be seconded to be a member of staff of the Service for the duration of the secondment.
- (6) The members of staff (including members of staff seconded under *subsection (4)* or *(5)*) of the Service shall perform their functions under the direction and control of the Credit Reviewer.
- (7) In this section—
- “appropriate authority” and “civil servant” have the same meaning, respectively, as they have in the Civil Service Regulation Act 1956;
- “public body” means—
- (a) a local authority,
  - (b) a body established—
    - (i) by or under an enactment other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act, or
    - (ii) under the Act of 2014,in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,
  - (c) a body that is wholly or partly funded directly or indirectly out of money provided by the Oireachtas or from the Central Fund or the growing produce of that Fund, or
  - (d) any subsidiary of, or company controlled (within the meaning of section 10 of the Taxes Consolidation Act 1997) by, a body to which *paragraph (b)* or *(c)* relates.

### Superannuation

16. (1) The Service shall, subject to *subsection (2)*, as soon as may be after the establishment day, with the approval of the Minister and the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, make a scheme

or schemes for the granting of superannuation benefits to or in respect of the Credit Reviewer or such other members of the staff of the Service as it considers appropriate.

- (2) A scheme under this section shall not provide for the granting of superannuation benefits to or in respect of any person where the Single Public Service Pension Scheme applies to or in respect of that person by virtue of Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.
- (3) A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
- (4) The Service may, with the approval of the Minister and the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.
- (5) A scheme or an amending scheme under this section shall be carried out by the Service in accordance with its terms.
- (6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit pursuant to a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, whose decision shall be final.
- (7) No superannuation benefits shall be granted by the Service to or in respect of any of its staff (including the Credit Reviewer) who are members of a scheme under this section, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved under this section or an arrangement approved by the Minister with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.
- (8) A scheme under this section shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
- (9) *Subsection (8)* shall, with all necessary modifications, apply to an amendment to a scheme under this section as it applies to a scheme under this section.
- (10) In this section, “superannuation benefit” means a pension, gratuity or other allowance payable on retirement, resignation or death.

### **Consultants and advisers**

17. (1) The Service may engage such consultants and advisers as it considers necessary for the performance of its functions.

- (2) The Service shall comply with any directions concerning the engagement of consultants and advisers which may from time to time be given to it, with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, by the Minister.
- (3) Any remuneration due to a consultant or adviser engaged pursuant to this section shall, having regard to guidelines issued from time to time by the Minister or the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, be paid out of moneys at the disposal of the Service.

### **Accounts and audit**

- 18.** (1) The Service shall keep, in such form and in respect of each financial year, or such other accounting periods as may be approved by the Minister with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, all proper and usual accounts of moneys received and expended by the Service and, in particular, shall keep all such special accounts (if any) as the Minister may, with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, from time to time direct.
- (2) Not later than 2 months after the end of the financial year or other accounting period to which the accounts kept under *subsection (1)* relate, the Service shall submit the accounts in respect of that period, signed by the Credit Reviewer, to the Comptroller and Auditor General for audit.
- (3) Immediately following the audit referred to in *subsection (2)*, the Service shall present to the Minister copies of—
- (a) the audited accounts, and
  - (b) the report of the Comptroller and Auditor General on the accounts.
- (4) As soon as practicable after receipt of the audited accounts and the Comptroller and Auditor General's report referred to in *subsection (3)*, the Minister shall cause copies of them to be laid before each House of the Oireachtas.
- (5) The Service shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the Service in respect of any accounting period or other period and shall facilitate any such examination, and the Service shall pay such fee for the examination as may be fixed by the Minister.

### **Appearance of Credit Reviewer before Committee of Public Accounts**

- 19.** (1) The Credit Reviewer shall, whenever required in writing to do so by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the "Committee"), give evidence to that Committee in relation to—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Service is required by this Act to prepare,
  - (b) the economy and efficiency of the Service in the use of its resources,
  - (c) the systems, procedures and practices employed by the Service for the purpose of evaluating the effectiveness of its operations, and
  - (d) any matter affecting the Service referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as the report relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.
- (2) In the performance of his or her duties under this section, the Credit Reviewer shall not question or express an opinion on the merits of—
- (a) any policy of the Government or a Minister of the Government, or
  - (b) the objectives of such a policy.

#### **Accountability of Credit Reviewer to other Oireachtas committees**

- 20.** (1) In this section, “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 19(1)* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
- (2) Subject to *subsection (3)*, the Credit Reviewer shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Service.
- (3) The Credit Reviewer shall not be required to give account before a Committee for any matter that is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
- (4) Where the Credit Reviewer is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the Credit Reviewer is before it, the information shall be so conveyed in writing.
- (5) Where the Credit Reviewer has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—

- (a) the Credit Reviewer may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
  - (b) the chairperson of the Committee may, on behalf of the Committee, make such an application,
- and the High Court shall determine the matter.
- (6) Pending the determination of an application under *subsection (5)*, the Credit Reviewer shall not attend before the Committee to give account for the matter that is the subject of the application.
  - (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)* but, if the High Court determines that *subsection (3)* does not apply, the Credit Reviewer shall attend before the Committee to give account for the matter.
  - (8) In the performance of his or her duties under this section, the Credit Reviewer shall not question or express an opinion on the merits of—
    - (a) any policy of the Government or a Minister of the Government, or
    - (b) the objectives of such a policy.

### Reports to Minister

21. (1) The Service shall, not later than 30 April in each year after the year in which this section comes into operation, prepare and submit to the Minister a report (in this section referred to as the “annual report”) in writing on the performance by it of its functions in the preceding year.
- (2) The reference in *subsection (1)* to the preceding year shall, in the case of the first annual report to be prepared under this section, be read as a reference to the period commencing on the establishment day and ending on the following 31 December.
  - (3) The Minister shall, as soon as may be after the receipt by him or her of the annual report, cause copies of the annual report to be laid before each House of the Oireachtas.
  - (4) The Service shall, as soon as practicable after copies of the annual report are laid before the Houses of the Oireachtas under *subsection (3)*, arrange for the report to be published on its website.
  - (5) The annual report shall contain information in relation to—
    - (a) progress regarding implementation of the strategy statement published under *section 22*,
    - (b) trends and developments in markets for the provision of credit to borrowers, and
    - (c) such other matters as the Minister may specify.

- (6) The annual report may include a summary from which borrowers cannot be identified of—
  - (a) applications for review made by borrowers,
  - (b) decisions of the Service, and
  - (c) recommendations of the Service,under *section 26*.
- (7) The Service may, from time to time, prepare and submit to the Minister such other reports in relation to the activities of the Service as it considers appropriate.
- (8) The Minister may require the Service, by direction in writing, to prepare and submit to him or her, not later than such date as the Minister specifies in the direction, a report in relation to any other matter relating to the functions of the Service as the Minister considers appropriate.
- (9) The Service shall comply with a direction under *subsection (8)*.
- (10) This section shall not operate to require the Service to include information in the annual report or other report referred to in this section that, in its opinion, would prejudice the performance by the Service of its functions.

### Strategy statement

- 22.** (1) The Service shall, not later than 6 months after the establishment day, and thereafter not earlier than 6 months before and not later than the expiration of each subsequent period of 3 years following the establishment day, prepare and submit to the Minister, for approval by the Minister with or without amendment, a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted.
- (2) A strategy statement shall—
- (a) specify the key objectives, outputs and related strategies (including the use of resources) of the Service,
  - (b) specify the manner in which the Service proposes to assess its performance in respect of those objectives, taking account of relevant performance indicators (financial and non-financial),
  - (c) except for the first strategy statement, include a review of the outcomes and effectiveness of the preceding strategy statement, and
  - (d) include any other matters that the Minister may direct.
- (3) A strategy statement shall be prepared in the form and manner that the Minister may from time to time direct.
- (4) The Service shall, in the preparation of a strategy statement, have regard to the need to ensure the most effective and efficient use of the resources available to the Service.

- (5) The Service may, in preparing a strategy statement, consult such persons as it considers appropriate.
- (6) As soon as practicable after approving a strategy statement, the Minister shall cause a copy of it to be laid before each House of the Oireachtas.
- (7) The Service shall, as soon as practicable after a copy of the strategy statement is laid before each House of the Oireachtas in accordance with *subsection (6)*, arrange for the strategy statement to be published on its website.

#### **Liability of Service and Credit Reviewer**

- 23.** (1) The Service shall not be liable to pay compensation in respect of any act done or omitted to be done by the Service in the performance, or purported performance, of functions under this Act, unless the act or omission concerned was done in bad faith.
- (2) The Credit Reviewer shall not be liable to pay compensation in respect of any act done or omitted to be done by the Credit Reviewer in the performance, or purported performance, of functions under this Act, unless the act or omission concerned was done in bad faith.

#### **Prohibition on unauthorised disclosure of confidential information**

- 24.** (1) Except in the circumstances specified in *subsection (2)*, a person shall not disclose confidential information obtained by him or her while performing functions as—
- (a) the Credit Reviewer or another member of the staff of the Service, or
  - (b) an adviser or consultant to the Service or a member of the staff of such an adviser or consultant.
- (2) *Subsection (1)* shall not operate to prohibit the disclosure of confidential information by a person referred to in that subsection where—
- (a) the Credit Reviewer authorises the disclosure,
  - (b) the disclosure is made to the Credit Reviewer or another member of the staff of the Service,
  - (c) the disclosure is made in the performance of the functions of the Service,
  - (d) the disclosure is made by or on behalf of the Credit Reviewer or the Service to the Minister,
  - (e) the disclosure is made in compliance with a requirement of this Act or is otherwise required by law,
  - (f) the disclosure is made by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995,
  - (g) the disclosure is a protected disclosure within the meaning of the Protected Disclosures Act 2014, or

- (h) the disclosure is made to a member of An Garda Síochána and, in the opinion of the person making the disclosure, the information may relate to the commission of an offence (whether an offence under this section or not).
- (3) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (4) In this section, “confidential information” shall include—
  - (a) information that is expressed by the Credit Reviewer to be confidential either as regards particular information or as regards information of a particular class or description, and
  - (b) proposals of a commercial nature or tenders submitted to the Credit Reviewer or the Service by contractors, consultants or any other person.

### PART 3

#### REVIEW OF CREDIT DECISIONS AND LENDING PRACTICES

##### **Definition (*Part 3*)**

- 25.** In this Part, “application for review” means an application made by a borrower to the Service in accordance with *section 26* for review of a credit decision.

##### **Review of credit decisions**

- 26.** (1) Subject to *subsections (2) and (3)*, a borrower may apply to the Service, in such form and manner as may be specified by the Service, for review of a credit decision relating to the borrower.
- (2) Subject to *subsection (3)*, an application for review shall be made by a borrower—
- (a) in the case of a credit decision referred to in *paragraph (a), (c), (d), (e) or (g)* of the definition of “credit decision” in *section 2*, not later than 30 days after the date on which the borrower receives notice of the credit decision, and
  - (b) in the case of a credit decision referred to in *paragraph (b) or (f)* of the definition of “credit decision” in *section 2*, not later than 30 days after—
    - (i) the date on which the borrower receives the offer to enter into the credit facility agreement or alternative arrangement, as the case may be,
    - (ii) subject to *subparagraph (iii)*, expiry of the period of 15 working days referred to in *paragraph (b)* of the definition of “constructive refusal” in *section 2*, or
    - (iii) where a notice referred to in *paragraph (b)(ii)* of the definition of “constructive refusal” in *section 2* has been given to the applicant, expiry of the period referred to in the notice,

whichever is later.

- (3) The Service may extend the 30 day period referred to in *subsection (2)(a)* and *(b)* by such further period, not exceeding 10 days, as it considers appropriate, but shall only do so if it is satisfied that—
  - (a) there is good and sufficient reason for doing so, and
  - (b) the circumstances that resulted in the failure to make the application for review within the period so provided were outside the control of the applicant.
- (4) Subject to *section 27*, where a borrower makes an application for review in accordance with this section, the Service shall review the credit decision to which the application relates under this section.
- (5) The procedures for conducting a review of a credit decision under this section shall be such as the Service considers appropriate in all the circumstances of the case and the review shall be as informal as is consistent with the due performance by the Service of its functions under this Act.
- (6) The Service shall, on the commencement of a review under this section, notify the borrower and the relevant person concerned of the commencement of the review.
- (7) The Service may, for the purposes of carrying out a review under this section, by notice in writing, request the borrower or the relevant person to provide such information or document as the Service may reasonably require in order to carry out the review.
- (8) Where the Service requests a relevant person to provide any information or document relating to an application for review in respect of which a decision was previously made by the Service under *subsection (12)*, the relevant person shall only provide the information or document requested with the consent of the borrower that made the application for review.
- (9) A notice under *subsection (7)* shall specify—
  - (a) the information or document requested, and
  - (b) the date by which the information or document is requested.
- (10) Subject to *subsection (8)*, a borrower or relevant person, as the case may be, shall comply with a request under *subsection (7)* by the date specified in the notice.
- (11) The Service may, by notice in writing, invite the borrower or the relevant person, or a representative thereof, to attend a meeting with the Service to discuss the credit decision but attendance at the meeting shall be voluntary.
- (12) On completion of a review of a credit decision under this section, the Service shall make a decision in writing to—
  - (a) uphold the credit decision,
  - (b) recommend that the relevant person should offer to enter a credit facility agreement or an alternative arrangement, as the case may be, with the borrower

on such terms and conditions as the Service considers appropriate in all the circumstances, or

- (c) make such other recommendation in relation to the credit decision as the Service considers appropriate in all the circumstances.
- (13) In making a decision under *subsection (12)*, the Service shall have regard to—
- (a) the ability of the borrower to comply with the terms and conditions of the credit facility agreement or alternative arrangement concerned, and
  - (b) the ability of the borrower to fulfil its repayment obligations under the credit facility agreement or alternative arrangement having regard to its likely future performance and income.
- (14) The Service shall, as soon as practicable after making a decision under *subsection (12)*, inform the borrower and the relevant person concerned in writing of the decision and the reasons for it.
- (15) Where the Service makes a recommendation under *paragraph (b) or (c) of subsection (12)*, the relevant person concerned may decide—
- (a) to comply with the recommendation, or
  - (b) not to comply with the recommendation.
- (16) A relevant person shall, within 5 working days of receipt of a decision under *subsection (12)*, give notice to the Service, in such form and manner as the Service may specify, acknowledging the decision and, in the case of a recommendation under *paragraph (b) or (c) of subsection (12)*, informing the Service of its decision under *subsection (15)* in respect of the recommendation, and the reasons for that decision.
- (17) The Service shall give a copy of a notice under *subsection (16)* to the borrower concerned.

### **Declining to conduct a review**

27. (1) The Service may decline to undertake a review under *section 26*, or may discontinue such a review where, in the opinion of the Service—
- (a) the application for review is frivolous or vexatious or was not made in good faith,
  - (b) the application was not made by a borrower,
  - (c) the borrower has not exhausted any internal appeals procedure established by the relevant person concerned,
  - (d) the application was made after the expiry of the time limit specified in *section 26(2)* or, where applicable, that time limit as extended under *section 26(3)*,
  - (e) the borrower has not paid the prescribed fee in respect of the application for review, or

- (f) the borrower fails to comply with its obligations under *section 26(10)* or otherwise fails to engage with the Service in relation to the application for review.
- (2) The Service shall decline to undertake a review under *section 26*, or shall discontinue such a review, where it forms the opinion that the decision the subject of the application for review—
  - (a) has already been reviewed by the Service,
  - (b) is not a credit decision, or
  - (c) was notified to the borrower—
    - (i) more than 30 days before the establishment day, or
    - (ii) in the case of a credit decision made by a person belonging to a class of regulated financial service providers prescribed by regulations under *section 2(2)*, before the coming into effect of the regulations.
- (3) As soon as practicable after forming an opinion referred to in *subsection (1)* or *(2)*, the Service shall inform the borrower in writing of the opinion and the reasons for it.

**Prescribed fee**

- 28.** (1) The Minister shall prescribe the fee to be paid to the Service by a borrower in respect of an application for review and different fees may be prescribed for different classes of application.
- (2) An application for review shall be accompanied by such fee as may be prescribed under *subsection (1)*.
- (3) The Service may recover as a simple contract debt in any court of competent jurisdiction, from a person by whom the fee is payable, any amount due and owing to the Service in respect of a fee payable under this section.
- (4) Notwithstanding *subsection (2)*, the Service may waive the requirement to pay a fee under this section in respect of an application for review where, in the opinion of the Service, payment of the fee would be unfair to the borrower having regard to—
- (a) other applications for review made by a borrower in the year preceding the application for review, or
  - (b) any other criteria that may be specified by the Service.
- (5) In making regulations under this section, the Minister may have regard to—
- (a) the costs incurred by the Service, or
  - (b) the costs which it is reasonably anticipated will be incurred by the Service,
- in performing its functions under this Act, so that so much of those costs as the Minister considers appropriate may be recovered from fees prescribed by such regulations.

**Credit Review levy**

- 29.** (1) The Minister shall prescribe a charge to be known as the Credit Review levy (in this Act referred to as the “levy”) in respect of the costs incurred by the Service in carrying out its functions under this Act in a particular period (in this section referred to as the “period concerned”).
- (2) The levy shall be paid to the Service on or before the date prescribed in respect of the period concerned and in the manner prescribed.
- (3) The Minister shall prescribe the levy to be paid having regard to the costs incurred in the period concerned by the Service in the performance of its functions under this Act.
- (4) The Minister may prescribe a different levy in respect of different relevant persons or classes of relevant persons having regard to—
- (a) the number of applications for review received by the Service in respect of particular relevant persons or classes of relevant persons in the period concerned, and
  - (b) the number of credit facilities provided to borrowers by particular relevant persons or classes of relevant persons in the period concerned.
- (5) In prescribing the levy under this section, the Minister shall ensure that the total amount of the levy payable in respect of a particular period shall not exceed the costs incurred by the Service in the performance of its functions in the period concerned having regard to the accounts in respect of that period submitted to the Minister under *section 18*.
- (6) Regulations under this section may specify—
- (a) the penalties that shall be payable in cases of failure to pay the levy on time, having regard to one or more of the following:
    - (i) the amount of the outstanding levy;
    - (ii) the length of delay in payment of the outstanding levy;
    - (iii) a pattern, if any, of failure to pay, or to pay on time, the levy,
  - (b) requirements in relation to the keeping of records and making of returns to the Service by relevant persons who are liable to pay the levy,
  - (c) requirements in relation to the collection and recovery of the levy by the Service,
  - (d) general or special exemptions from the payment of the levy (wholly or partly) in different circumstances,
  - (e) requirements in relation to the method of payment of the levy and a reduction in the levy having regard to the method of payment of the levy, and
  - (f) the relevant persons or classes of relevant person required to pay the levy.
- (7) The levy shall be recoverable by the Service as a simple contract debt in any court of competent jurisdiction.

**Review of lending practices, activities and policies of relevant persons**

- 30.** (1) Upon the request of the Minister, the Service shall conduct a review of the provision of credit facilities to borrowers by relevant persons and the effect of such provision on the availability of credit facilities to borrowers.
- (2) As soon as practicable after the completion of a review under *subsection (1)*, the Service shall report to the Minister on the outcome of the review and the report shall include an assessment by the Service as to whether the demand from borrowers for credit is being met.
- (3) The Service may request a relevant person to provide such information and documents as it requires for the purposes of a review under *subsection (1)*, including—
- (a) annual policies or plans, including targets, in relation to the provision of credit facilities to borrowers by the relevant person,
  - (b) aggregated data relating to the provision by the relevant person of credit to borrowers during such period as may be specified by the Service, and
  - (c) commentary by the relevant person on the information referred to in *paragraph (b)*.
- (4) A relevant person shall provide information and documents requested under *subsection (3)* to the Service within such period and in such form and manner as may be specified by the Service.
- (5) The Service shall give to the Minister copies of any information and documents provided to the Service by a relevant person in accordance with this section.
- (6) The Service may request representatives of a relevant person to attend a meeting with the Service to discuss information and documents provided by the relevant person in accordance with this section.
- (7) A relevant person who receives a request made under *subsection (6)* shall comply with the request.
- (8) The Service may invite officers of the Minister to attend a meeting referred to in *subsection (6)*.
- (9) In this section, “aggregated data” means data that cannot be related to individual borrowers.

**PART 4****TRANSITIONAL PROVISIONS****Definition (Part 4)**

- 31.** In this Part, “Credit Reviewer” means the person who, immediately before the establishment day, was serving as the Credit Reviewer for the purposes of the Guidelines.

### **Transitional provisions consequent upon conferral of functions on Service**

- 32.** (1) Anything commenced and not completed before the establishment day by or under the authority of the Credit Reviewer may, in so far as it relates to a function conferred on the Service by this Act, be carried on or completed on or after the establishment day by the Service.
- (2) Where, immediately before the revocation of the Guidelines by *section 6*, a recommendation under paragraph 18 of the Guidelines in relation to an application for review under paragraph 3 of the Guidelines has not been made, the application shall be deemed to have been made under *Part 3* and that Part shall apply accordingly in respect of that application.
- (3) A decision made not more than 30 days before the establishment day that, if it were made on or after the establishment day, would be a credit decision, shall be deemed to be a credit decision for the purposes of this Act.

### **Transfer of rights and liabilities**

- 33.** (1) All rights and liabilities of the Credit Reviewer arising by virtue of any contract or commitment (expressed or implied) entered into by that person before the establishment day in the course of performing his or her functions under the Guidelines shall, on the establishment day, be transferred to the Service.
- (2) Every right and liability transferred by *subsection (1)* to the Service may, on and after the establishment day, be sued on, recovered or enforced by or against the Service in its own name, and it shall not be necessary for the Service to give notice to the person whose right or liability is transferred by that subsection of such transfer.

### **Records**

- 34.** Each record held by the Credit Reviewer for the purposes of his or her functions under the Guidelines shall, on the establishment day, stand transferred to the Service and shall, on and after that day, be the property of the Service and be regarded as being held by the Service.

### **Preservation of contracts**

- 35.** Every contract, agreement or arrangement made between the Credit Reviewer in the course of performing his or her functions under the Guidelines, and any other person, which is in force immediately before the establishment day, shall, on and after the establishment day, continue in force and be construed and have effect as if the name of the Service were substituted therein for the name of the Credit Reviewer, and be enforceable by or against the Service.

### **Liability for loss occurring before establishment day**

- 36.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the establishment day, of any of the functions

of the Credit Reviewer under the Guidelines shall, on and after the establishment day, lie against the Service.

- (2) Where, before the establishment day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they were, before the establishment day, enforceable against the Credit Reviewer, be enforceable on and after the establishment day against the Service and not the Credit Reviewer.
- (3) Any claim made or proper to be made by the Credit Reviewer in respect of any loss or injury arising from the act or default of any person before the establishment day shall, on and after the establishment day, be regarded as having been made by or proper to be made by the Service and may be pursued and sued for by the Service as if the loss or injury had been suffered by the Service.

## PART 5

### CONSEQUENTIAL AMENDMENTS TO OTHER ENACTMENTS

#### **Amendment of Schedule 13 to Taxes Consolidation Act 1997**

37. The Taxes Consolidation Act 1997 is amended, in Schedule 13, by the substitution of the following paragraph for paragraph 183:

“183. An tSeirbhís um Athbhreithniú Creidmheasa.”.

#### **Amendment of Financial Services and Pensions Ombudsman Act 2017**

38. The Financial Services and Pensions Ombudsman Act 2017 is amended—

- (a) in section 2, by the deletion of the definition of “Credit Reviewer”,
- (b) in section 44(2)(c)(i), by the substitution of “An tSeirbhís um Athbhreithniú Creidmheasa” for “the Credit Reviewer”, and
- (c) in section 50(3)(c), by the substitution of “An tSeirbhís um Athbhreithniú Creidmheasa” for “the Credit Reviewer”.

#### **Other consequential amendments**

39. (1) The Schedule 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) is amended, at reference number 86, by the substitution for the existing entries in columns (1) to (4) at that reference number of the following:

“

86.	An tSeirbhís um Athbhreithniú Creidmheasa		Credit Reviewer  All other positions of employment prescribed by Regulation 5 of S.I. No. 699 of 2004
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”.

- (2) The Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (S.I. No. 585 of 2015) are amended—
- (a) in Regulation 2, by the deletion of the definition of “Credit Review Office”, and
  - (b) by the substitution of “An tSeirbhís um Athbhreithniú Creidmheasa” for “the Credit Review Office” in each place where it occurs.
- (3) The amendment of a statutory instrument by *subsection (1)* or *(2)* does not prevent or restrict the subsequent amendment or revocation of the instrument by another statutory instrument.