



Number 22 of 2020

Credit Union Restructuring Board (Dissolution) Act 2020



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CREDIT UNION RESTRUCTURING BOARD (DISSOLUTION) ACT 2020

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*Credit Union Restructuring
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[2020.]

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[No. 22.]

ACTS REFERRED TO

Central Bank Act 1942 (No. 22)

Credit Union Acts 1997 to 2018

Credit Union and Co-operation with Overseas Regulators Act 2012 (No. 40)

Freedom of Information Act 2014 (No. 30)

Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)



Number 22 of 2020

CREDIT UNION RESTRUCTURING BOARD (DISSOLUTION) ACT 2020

An Act to provide for the dissolution of the Credit Union Restructuring Board; to transfer certain functions of the Credit Union Restructuring Board to the Minister for Finance; to amend the Credit Union and Co-operation with Overseas Regulators Act 2012; to provide for the consequential amendment of other enactments; and to provide for matters connected therewith. [6th December, 2020]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Credit Union Restructuring Board (Dissolution) Act 2020.
- (2) The Credit Union Acts 1997 to 2018 and this Act (other than *Part 4*) may be cited together as the Credit Union Acts 1997 to 2020 and shall be read together as one.
- (3) 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.

Definitions

2. In this Act—

“Act of 2012” means the Credit Union and Co-operation with Overseas Regulators Act 2012;

“dissolution day” means the day appointed as the dissolution day under *section 6*;

“dissolved body” has the meaning assigned to it by *section 6*;

“Minister” means the Minister for Finance;

“relevant authority” has the meaning assigned to it by section 5(1) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

Expenses

3. 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 and Reform, be paid out of moneys provided by the Oireachtas.

Repeal of certain provisions of Act of 2012

4. The following provisions of the Act of 2012 are repealed:

- (a) sections 40 to 46;
- (b) subsections (1) to (3) and subsection (6) of section 47;
- (c) section 49;
- (d) subsections (3)(a), (4) and (5) of section 50;
- (e) sections 51 to 55;
- (f) subsections (1), (2) and (4) of section 56;
- (g) subsections (2)(a) and (5) of section 57;
- (h) subsection (2) of section 59;
- (i) subsection (1) of section 60;
- (j) subsections (2) and (3) of section 65.

Saver

5. Regulations made by the dissolved body under section 47 of the Act of 2012 and in force immediately before the dissolution day shall, notwithstanding the repeal of subsection (1) of section 47 of the Act of 2012 by *section 4*, continue in force on and after that day as if made by the Minister.

PART 2

DISSOLUTION OF CREDIT UNION RESTRUCTURING BOARD

Dissolution of Credit Union Restructuring Board

6. (1) On the dissolution day the Credit Union Restructuring Board (in this Act referred to as the “dissolved body”) shall stand dissolved.
- (2) The Minister may, by order, appoint a day to be the dissolution day for the purposes of this Act.

Transfer of certain functions of dissolved body to Minister

7. (1) The functions vested in the dissolved body immediately before the dissolution day by or under subsections (4) and (5) of section 47, subsection (1) of section 48 and subsection (3) of section 50 of the Act of 2012 are transferred to the Minister.
- (2) The functions vested in the dissolved body as a relevant authority immediately before the dissolution day by or under the Public Service Pensions (Single Scheme and other Provisions) Act 2012 are transferred to the Minister.
- (3) References in any enactment or instrument under an enactment to the Credit Union Restructuring Board, to the extent that such references relate to a function transferred to the Minister under this section, shall be construed as references to the Minister.
- (4) This section shall come into operation on the dissolution day.

Transfer of property

8. (1) On the dissolution day all property (other than land), including choses-in-action, that immediately before that day, was vested in the dissolved body shall stand vested in the Minister without any assignment.
- (2) Every chose-in-action vested in the Minister by virtue of *subsection (1)* may, on and from the dissolution day, be sued on, recovered or enforced by the Minister in his or her own name, and it shall not be necessary for the Minister, or the dissolved body, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights and liabilities

9. (1) All rights and liabilities of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to the Minister.
- (2) Every right and liability transferred by *subsection (1)* to the Minister may, on and after the dissolution day, be sued on, recovered or enforced by or against the Minister in his or her own name, and it shall not be necessary for the Minister, or the dissolved body, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

Liability for loss occurring before dissolution day

10. (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 dissolution day of any of the functions of the dissolved body shall, on and after that day, lie against the Minister and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the dissolution day to which the dissolved body is a party shall be continued, with the substitution in the proceedings of the Minister, in so far as they so relate, for the dissolved body.

- (3) Where, before the dissolution 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 are enforceable against the dissolved body, be enforceable against the Minister and not the dissolved body.
- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, on or after that day, be regarded as having been made by or proper to be made by the Minister and may be pursued and sued for by the Minister as if the loss or injury had been suffered by the Minister.

Provisions consequent upon transfer of functions, property, rights and liabilities

11. (1) Anything commenced and not completed before the dissolution day by or under the authority of the dissolved body may be carried on or completed on or after the dissolution day by the Minister.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 7*, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Minister.
- (3) References to the Credit Union Restructuring Board in the memorandum or articles of association of any company and relating to a function transferred to the Minister under *section 7* shall, on and after the dissolution day, be construed as references to the Minister.
- (4) Any money, stocks, shares or securities transferred to the Minister by *section 8* that immediately before the dissolution day were standing in the name of the dissolved body shall, on the request of the Minister, be transferred into the name of the Minister.
- (5) A certificate signed by the Minister for Public Expenditure and Reform that any property, right or liability has or, as the case may be, has not vested in the Minister under *section 8* or *section 9* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Records of dissolved body

12. Each record held by the dissolved body immediately before the dissolution day shall on that day stand transferred to the Minister and shall, on and from that day, be the property of the Minister and be regarded as being held by the Minister.

Final accounts of dissolved body

13. (1) As soon as may be after the dissolution day, but not later than one year thereafter, the Minister shall cause to be prepared final accounts of the dissolved body in respect of the period specified under *subsection (3)*.

- (2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Minister to the Comptroller and Auditor General for audit and immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body.

PART 3

AMENDMENT OF ACT OF 2012

Amendment of section 47 of Act of 2012

14. Section 47 of the Act of 2012 is amended by the substitution of the following subsection for subsection (5):

“(5) The Minister 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 ReBo in respect of a levy charged under the Credit Union Fund (ReBo Levy) Regulations 2015 (S.I. No. 557 of 2015), the Credit Union Fund (ReBo Levy) Regulations 2016 (S.I. No. 585 of 2016) or the Credit Union Fund (ReBo Levy) Regulations 2017 (S.I. No. 283 of 2017).”.

Amendment of section 48 of Act of 2012

15. Section 48 of the Act of 2012 is amended by the substitution of the following subsection for subsection (1):

“(1) The ReBo levy charged under the Credit Union Fund (ReBo Levy) Regulations 2015, the Credit Union Fund (ReBo Levy) Regulations 2016 or the Credit Union Fund (ReBo Levy) Regulations 2017 shall be collected by the Minister.”.

Amendment of section 50 of Act of 2012

16. Section 50 of the Act of 2012 is amended—

- (a) by the substitution, in subsection (3), of “The Minister” for “ReBo”, and
- (b) by the substitution, in paragraph (b) of subsection (6), of “the Minister” for “ReBo”.

Amendment of section 57 of Act of 2012

17. Section 57 of the Act of 2012 is amended—

- (a) by the substitution of the following paragraph for paragraph (c) of subsection (2):
 - “(c) to meet the expenses incurred by the Minister in the performance of his or her functions under this Act and to meet any expenses relating to and associated with the dissolution of ReBo,”
- (b) by the substitution of the following subsection for subsection (4):
 - “(4) Subject to subsection (4A), the Minister may transfer any moneys from the Credit Union Fund into the Central Fund.”
- (c) by the insertion of the following subsection after subsection (4):
 - “(4A) Moneys for the provision of stabilisation support in accordance with Part 4 shall not be transferred from the Credit Union Fund to the Central Fund.”
- (d) by the substitution, in subsection (7), of “subsection (6)” for “subsections (5) and (6)”, and
- (e) by the substitution, in subsection (8), of “subsection (6)” for “subsections (5) or (6)”.

Amendment of section 59 of Act of 2012**18.** Section 59 of the Act of 2012 is amended—

- (a) in subsection (4), by—
 - (i) the substitution of “subsection (3)” for “subsection (2)”, and
 - (ii) the deletion, in paragraph (a), of “providing financial support for the restructuring of credit unions under this Part or”,
- (b) by the substitution, in subsection (5), of “subsection (3)” for “subsection (2)”, and
- (c) by the substitution of the following paragraph for paragraph (a) of subsection (6):
 - “(a) shall consult with the Bank and the Credit Union Advisory Committee, and”.

Amendment of section 65 of Act of 2012**19.** Section 65 of the Act of 2012 is amended in subsection (1) by the substitution, in paragraph (a), of “Subject to section 64,” for “Subject to subsection (2) and section 64,”.

PART 4

MISCELLANEOUS AMENDMENTS

Amendment of section 33AK of Central Bank Act 1942

20. Section 33AK of the Central Bank Act 1942 is amended in subsection (5) by the substitution of the following paragraph for paragraph (aja) (inserted by subsection (3) of section 56 of the Act of 2012):

“(aja) to the Minister that is required for the performance of the Minister’s functions under the Credit Union and Co-operation with Overseas Regulators Act 2012, or”.

Amendment of section 61H of Central Bank Act 1942

21. Section 61H of the Central Bank Act 1942 is amended in subsection (4) by the deletion of paragraph (ca) (inserted by subsection (2) of section 48 of the Act of 2012).

Amendment of Schedule 1 to Freedom of Information Act 2014

22. Schedule 1 to the Freedom of Information Act 2014 is amended in Part 1 by the substitution of the following paragraph for paragraph (e):

“(e) the Minister for Finance, insofar as it relates to any records held by that Minister containing personal or confidential information (including confidential financial or commercial information) concerning the business of any person, held by the Minister for the purposes of performing any of his or her statutory functions under the Credit Union and Co-operation with Overseas Regulators Act 2012, other than where that information is presented in such a manner (whether aggregated, summarised or otherwise, or relating to more than one person) that ensures that no such personal or confidential information is disclosed and that no person can be identified from the records or information concerned;”.