
No. 18/1990: NATIONAL TREASURY MANAGEMENT AGENCY ACT, 1990

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FIRST SCHEDULE

FUNCTIONS OF THE MINISTER THAT MAY BE DELEGATED TO THE AGENCY

SECOND SCHEDULE

THE NATIONAL TREASURY MANAGEMENT AGENCY ADVISORY COMMITTEE

ACTS REFERRED TO

Appropriation Act, 1950 1950, No. 20
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Civil Service Regulation Act, 1956 1956, No. 46
European Assembly Elections Act, 1977 1977, No. 30
European Assembly Elections Act, 1984 1984, No. 6
Exchequer and Audit Departments Acts, 1866 and 1921
Finance Act, 1930 1930, No. 20
Finance Act, 1940 1940, No. 14
Finance Act, 1950 1950, No. 18
Finance Act, 1970 1970, No. 14
Finance Act, 1978 1978, No. 21
Finance Act, 1983 1983, No. 15
Finance Act, 1988 1988, No. 12
Finance Act, 1989 1989, No. 10
Finance Act, 1990 1990, No. 10
Finance (Miscellaneous Provisions) Act, 1956 1956, No. 47
Finance (No. 2) Act, 1968 1968, No. 37
Finance (No. 2) Act, 1981 1981, No. 28
Postal and Telecommunications Services Act, 1983 1983, No. 24
Trustee Savings Banks Act, 1989 1989, No. 21

Number 18 of 1990

NATIONAL TREASURY MANAGEMENT AGENCY ACT, 1990

AN ACT TO PROVIDE, IN THE PUBLIC INTEREST, FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE NATIONAL TREASURY MANAGEMENT AGENCY TO BORROW MONEYS FOR THE EXCHEQUER AND TO MANAGE THE NATIONAL DEBT ON BEHALF OF

AND SUBJECT TO THE CONTROL AND GENERAL SUPER INTENDENCE OF THE MINISTER FOR FINANCE AND TO PERFORM CERTAIN RELATED FUNCTIONS AND TO PROVIDE FOR CONNECTED MATTERS.

[17th July, 1990]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

[zza18y1990s1]1 Interpretation.

1.—(1) In this Act—

"the Agency" means the National Treasury Management Agency established by section 3;

"the Chief Executive" means the chief executive officer of the Agency;

"the Committee" means the National Treasury Management Agency Advisory Committee established by section 9;

"the establishment day" means the day appointed by the Minister under section 2;

"functions" includes powers and duties and references to the performance of functions include as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

"the Minister" means the Minister for Finance;

"the national debt" means the debt outstanding for the time being of the Exchequer.

(2) In this Act—

(a) a reference to a section or Schedule is a reference to a section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended,

(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and

(c) a reference to an enactment shall be construed as a reference to that enactment as amended or extended by any other enactment.

[zza18y1990s2]2 Establishment day.

2.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

[zza18y1990s3]3 Establishment of National Treasury Management Agency.

3.—(1) On the establishment day there shall stand established a body to be known as the National Treasury Management Agency and in this Act referred to as "the Agency," to perform, on the authority of the Government, the functions conferred on it by or under this Act.

(2) The Agency shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

[zza18y1990s4]4 Functions of Agency.

4.—(1) The principal functions of the Agency shall be to perform, on behalf of the Minister, the functions delegated to it under section 5.

(2) The Agency shall have all such powers (including the power to employ consultants and financial institutions) as are necessary or expedient for the purpose of its functions.

(3) The functions of the Agency shall be performed subject to the control and general superintendence of the Minister.

(4) The Minister may, for the purposes of subsection (3), give directions or guidelines to the Agency and the Agency shall comply with any such directions and perform its functions in accordance with any such guidelines.

[zza18y1990s5]5 Delegation of functions to Agency.

5.—(1) The Government may by order delegate to the Agency the functions of the Minister specified in the First Schedule and any other functions of the Minister in relation to the management of the national debt or the borrowing of moneys for the Exchequer that the Minister considers appropriate and are specified in the order.

(2) (a) Without prejudice to the generality of subsection (1), when ever an order under subsection (1) is in force, the Agency shall, if and in so far as the order so declares, have the following functions:

(i) the preparation and the submission to the Minister as soon as may be in each year of a scheme indicating, as respects the moneys proposed to be borrowed by the Agency on behalf of the Minister for the Exchequer in that year, the proportion thereof proposed to be borrowed in the currency of the State, in respect of that year, the first such scheme being in respect of the year following that in which the establishment day falls,

(ii) the review, and, where appropriate, the revision, from time to time as occasion requires, of schemes prepared pursuant to subparagraph (i) and the submission of any such revision to the Minister,

(iii) the determination of the terms and conditions on which moneys, whether in the currency of the State or in any other currency, are borrowed by the Agency on behalf of the Minister for the Exchequer,

(iv) the preparation, and submission to the Minister, in respect of each year whenever he so requests, of an estimate of—

(I) the amount of interest on the national debt,

(II) the amount due to any sinking fund in respect of the national debt,

(III) the amount of the expenditure of the Agency (other than expenditure in respect of the matters specified in subparagraphs (I) and (II) in relation to the borrowing of moneys by the Agency on behalf of the Minister for the Exchequer, and

(IV) the amount of the expenses of the Agency,

falling to be paid in that year, the first such estimate being in respect of the year following that in which the establishment day falls, and it shall be the duty of the Agency to ensure that the performance of its functions and the management of its affairs is such as to secure that the amounts of the payments made by it in any year in respect of the matters aforesaid correspond as nearly as may be with the amounts specified in the scheme under this subparagraph in respect of those matters, as approved of by the Minister (whether with or without amendment) for that year,

(v) advising the Minister, whenever he so requests, in relation to the borrowing of moneys by persons whose borrowing of moneys is subject to the consent of the Minister, the timing of such borrowing and the terms and conditions thereof,

(vi) advising the Minister, whenever he so requests, in relation to—

(I) the management of the national debt and matters connected therewith,

(II) stock exchanges and other markets for stocks and shares and securities of the Government and the other financial markets and matters connected with financial markets, and

(III) the sale of assets held by the Minister on behalf of the State and matters related thereto, including the employment of financial institutions by the Minister in connection with such sales, and the effect of such sales on demand for securities issued in the name or on behalf of the Minister for the purpose of the borrowing of money in the name or on behalf of the Minister for the Exchequer,

(vii) advising the Minister in relation to the borrowing (whether actual or proposed) of moneys in the name or on behalf of the Minister for the Exchequer, the total of such borrowings and the implications for, and effect on, the national finances and the economy generally of different totals of such borrowings,

(viii) whenever it considers it necessary or expedient to do so for the purposes of the management of the national debt, the arrangement of payments to and from the Exchequer Account and the giving of directions in relation to the management, in accordance with law, and the making of payments, in accordance with law, to and from, the Post Office Savings Bank Fund, the following accounts of the Minister, namely, the Capital Services Redemption Account, the National Loans Sinking Funds Accounts, the National Loans Advance Interest Account, the Stock Accepted in Payment of Death Duties Account and any other account in which moneys are held on behalf of the Minister,

(ix) the establishment and maintenance of business relationships with institutions that engage in the investment of moneys in stocks, shares, securities of the Government or other securities or in the lending of moneys,

(x) whenever the Agency considers it necessary or expedient, to engage in one or more of the following, namely, the collection, collation and preparation, and the communication and distribution to banks and other financial institutions and their advisers, of information (including statistics and forecasts and extrapolations of trends and developments) in relation to the national debt, the borrowing and repayment of moneys, and the payment of interest thereon, in the name or on behalf of the Minister for the Exchequer or by persons whose borrowing of money is subject to the consent of the Minister.

(b) An order under subsection (1) may contain such ancillary and incidental provisions (including provisions adapting the statutory provisions specified in the First Schedule or any other statutory provision) as the Government consider necessary or expedient for the purposes of the delegation effected by the order.

(c) Whenever an order under subsection (1) is in force, the Minister may provide the Agency with such information within his control or procurement and requested by the Agency as he considers necessary or expedient for the purposes of the day to day management of the national debt.

(3) The following provisions shall apply in relation to a delegation under this section and a declaration under subsection (2) (a), that is to say:

- (a) the Government may at any time by order—
- (i) revoke the delegation in whole or in part, or
 - (ii) provide that all or any of the functions to which the declaration relates shall cease to be performed by the Agency, and, upon the commencement of the order, the functions shall cease to be performed by the Agency,
- (b) subject to paragraph (a), the delegation shall operate, so long as it continues in force, to confer on and vest in the Agency each function delegated by the delegation and the declaration shall operate, so long as it continues in force, to confer on and vest in the Agency each function specified in subsection (2) (a),
- (c) a function delegated by the delegation or to which the declaration aforesaid relates shall be performed by the Agency subject to any conditions or restrictions stated in the order concerned under this section,
- (d) any obligation or liability undertaken by the Agency consequent upon the performance by the Agency of a function to which the delegation or declaration relates shall be of the same force and effect as if the obligation or liability had been undertaken by the Minister,
- (e) a function of the Minister delegated by the delegation or to which the declaration relates shall, notwithstanding the delegation or declaration, as the case may be, continue to be vested in the Minister but shall be so vested concurrently with the Agency and so as to be capable of being performed by either the Minister or the Agency, and
- (f) the delegation or declaration shall not remove or derogate from the responsibility of the Minister to Dáil Éireann or as a member of the Government for the performance of functions of the Minister thereby delegated or to which the declaration relates.

(4) The Government may by order amend or revoke an order under this section including an order under this subsection.

(5) An order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

[zza18y1990s6]6 Chief Executive.

6.—(1) There shall be a chief executive officer of the Agency who shall be known, and is referred to in this Act, as the Chief Executive.

(2) The Chief Executive shall carry on and manage and control generally the administration and business of the Agency and shall perform such other (if any) functions in relation to the Agency as may be determined by the Minister.

(3) The Chief Executive shall hold office for such term and upon and subject to such other terms and conditions (including terms and conditions relating to remuneration) as may be determined by the Minister after consultation with the Committee.

(4) The Agency shall act through, and its functions shall be performed in the name of the Agency by, the Chief Executive or another officer of the Agency duly authorised in that behalf by the Chief Executive.

(5) The Chief Executive shall be directly responsible to the Minister for the performance of the functions of the Agency.

(6) The Minister shall appoint the Chief Executive and may, for stated reasons, suspend him from office or terminate his employment with the Agency.

(7) (a) In the event of the incapacity through illness, or the suspension from office, of the Chief Executive, the Minister may appoint a person, who shall be known, and is referred to in this section, as the Acting Chief Executive, to perform the functions of the Chief Executive.

(b) No Acting Chief Executive shall be appointed to hold office for a term in excess of 12 months.

(c) The Acting Chief Executive shall hold office for such term and upon and subject to such other terms and conditions (including terms and conditions relating to remuneration) as may be determined by the Minister after consultation with the Committee.

(d) The Minister may, for stated reasons, suspend the Acting Chief Executive from office or terminate his appointment as Acting Chief Executive and shall terminate his

appointment as Acting Chief Executive upon being satisfied that the incapacity of the Chief Executive has ceased or that his suspension from office has ceased and that he has resumed the performance of his functions.

(e) Subsection (5) and paragraph (a) shall apply to the Acting Chief Executive as they apply to the Chief Executive.

(8) Neither the Chief Executive nor the Acting Chief Executive shall be a civil servant within the meaning of the Civil Service Regulation Act, 1956.

(9) In this section "remuneration" includes allowances for expenses, benefits-in-kind and superannuation.

[zza18y1990s7]7 Staff of Agency.

7.—(1) The Agency may appoint such, and such number of, persons to be members of the staff of the Agency as it may determine.

(2) (a) A member of the staff of the Agency (other than the Chief Executive) shall be paid, such remuneration (including allowances for expenses and benefits-in-kind) as the Agency may determine.

(b) A member of the staff of the Agency referred to in paragraph (a) shall hold his office or employment on such other terms and conditions as the Agency may determine.

(3) The categories of the staff of the Agency and the numbers of staff in each category shall be determined by the Agency.

(4) A member of the staff of the Agency shall not be a civil servant within the meaning of the Civil Service Regulation Act, 1956, but, notwithstanding the foregoing, officers of the Minister may be seconded to the Agency for a period not exceeding 3 months from the establishment day.

[zza18y1990s8]8 Superannuation of staff of Agency.

8.—(1) The Agency may make or arrange for the making of a scheme or schemes for the granting by the Agency of superannuation benefits to or in respect of persons (other than the Chief Executive) appointed to positions on the staff of the Agency.

(2) A scheme under subsection (1) shall fix the time and conditions of retirement for 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.

(3) The Agency may make or arrange for the making of a scheme amending or revoking a scheme under this section including a scheme under this subsection.

(4) No superannuation benefit shall be granted by the Agency on the resignation, retirement or death of a member of the staff of the Agency (other than the Chief Executive) otherwise than in accordance with a scheme or schemes under this section.

(5) In this section "superannuation benefits" means pensions, gratuities and other allowances payable on resignation, retirement or death.

[zza18y1990s9]9 Advisory committee.

9.—(1) On the establishment day there shall stand established a committee to be known as the National Treasury Management Agency Advisory Committee, and in this Act referred to as "the Committee" to assist and advise the Agency in relation to such matters as are referred to it for that purpose by the Agency and to perform the functions assigned to it by section 6 (3).

(2) The provisions of the Second Schedule shall have effect with respect to the Committee.

[zza18y1990s10]10 Membership of either House of Oireachtas or of or European Parliament by members Committee or of staff of Agency.

10.—(1) Where a member of the Committee is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or of committee or of the European Parliament, or

(c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 as having been elected to such , Parliament to fill a vacancy,

he shall thereupon cease to be a member of the Committee.

(2) Where a person who is a member of the staff of the Agency is—

(a) nominated as a member of Seanad Éireann, or

(b) elected as a member of either House of the Oireachtas or of the European Parliament, or

(c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he shall thereupon stand seconded from employment by the Agency and shall not be paid by, or be entitled to receive from, the Agency any remuneration or allowances in respect of the period commencing on such nomination or election or when he is so regarded as having been elected, as the case may be, and ending when he ceases to be a member of either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament shall, while he is so entitled or is such a member, be disqualified for becoming a member of the Committee or of the staff of the Agency.

(4) Without prejudice to the generality of subsection (2), that subsection shall be construed as prohibiting, inter alia, the reckoning of a period mentioned in that subsection as service with the Agency for the purposes of any pensions, gratuities or other allowances payable on resignation, retirement or death.

[zza18y1990s11]11 Expenses of Agency.

11.—The expenses incurred by the Agency, in the performance of its functions shall be charged on and paid out of the Central Fund or the growing produce thereof.

[zza18y1990s12]12 Accounts of Agency and audits.

12.—(1) The Agency shall keep in such form as may be approved of by the Minister all proper and usual accounts of all moneys received or expended by the Agency and, in particular, shall keep all such special accounts (if any) as the Minister may from time to time direct.

(2) Accounts kept in pursuance of this section signed by the Chief Executive (who shall be the officer accountable for such accounts for the purposes of the Exchequer and Audit Departments Acts, 1866 and 1921) shall be submitted as soon as may be, but not later than months, after the end of the financial year of the Agency to which they relate by the Agency to the Comptroller and Auditor General for audit and a copy of the accounts as so audited shall be presented to the Minister as soon as may be and the Minister shall cause a copy of the accounts as so audited to be laid before each House of the Oireachtas.

(3) The Comptroller and Auditor General shall, together with his report on the Appropriation Accounts for any year, make a report to Dáil Éireann with respect to the correctness of the sums brought to account by the Agency under this section in that year.

[zza18y1990s13]13 Reports and information to Minister.

13.—(1) As soon as may be, but not later than 6 months, after the end of each financial year of the Agency, the Agency shall make a report to the Minister of its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(2) Each report under subsection (1) shall include information in such form and regarding such matters as the Minister may direct.

(3) The Agency shall, whenever so requested by the Minister, furnish to him information in relation to such matters as he may specify concerning or relating to the scope of its activities or its strategy generally or in respect of any account prepared by the Agency or any report specified in subsection (1) or section 12 (2) or the policy and activities of the Agency.

[zza18y1990s14]14 Disclosure of information.

14.—(1) A person shall not, without the consent of the Agency, disclose any information obtained by him while carrying out duties as a member of the Committee or a member of the staff of, or an adviser or consultant to, the Agency.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(3) Nothing in subsection (1) shall prevent the disclosure of information in a report made, or advice tendered, to the Agency or by or on behalf of the Agency to the Minister.

[zza18y1990s15]15 Amendment of Finance Act, 1988.

15.—Section 67 of the Finance Act, 1988, is hereby amended by the insertion in subsection (8) after "debt" of "and, whenever he considers it appropriate, towards the making of payments or repayments in respect of such transactions".

[zza18y1990s16]16 Expenses.

16.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

[zza18y1990s17]17 Short title.

17.—This Act may be cited as the National Treasury Management Agency Act, 1990.

Section 5.

FIRST SCHEDULE

FUNCTIONS OF THE MINISTER THAT MAY BE DELEGATED TO THE AGENCY

The functions of the Minister under—

- (a) section 19 of the Finance Act, 1930,
- (b) section 30 (2) of the Finance Act, 1940,
- (c) sections 22, as amended by the Finance Act, 1989, and 23 of the Finance (Miscellaneous Provisions) Act, 1956,
- (d) section 4 of the Appropriation Act, 1965, as amended by section 2 of the Appropriation Act, 1969,
- (e) sections 464 of the Income Tax Act, 1967,
- (f) section 9 (1) of the Finance (No. 2) Act, 1968,
- (g) section 54 of the Finance Act, 1970, as amended by section 6 of the Finance (No. 2) Act, 1970, section 49 of the Finance Act, 1978, section 18 of the Finance (No. 2) Act, 1981, section 118 (in so far as the amendment relates to the engagement in certain transactions of a normal banking nature) of the Finance Act, 1983, and section 68 of the Finance Act, 1988,
- (h) sections 103 of the Postal and Telecommunications Services Act, 1983,
- (i) section 119 of the Finance Act, 1983,
- (j) section 32 of the Trustee Savings Banks Act, 1989,
- (k) section 67 (8) of the Finance Act, 1988, as amended by section 15, and
- (l) section 134 of the Finance Act, 1990.

Section 9.

SECOND SCHEDULE

THE NATIONAL TREASURY MANAGEMENT AGENCY ADVISORY COMMITTEE

1. The Committee shall consist of not less than 5 nor more than 7 members (one of whom may be the Chief Executive) who shall be appointed to be such members by the Minister.
2. (1) Subject to the provisions of this Schedule, members of the Committee shall hold office for such period and on such terms and conditions as the Minister may determine.
 (2) The Minister may at any time remove a member of the Committee from office.
 (3) A member of the Committee may at any time resign from office by letter addressed to the Minister.
 (4) A member of the Committee shall be paid such remuneration and allowances for expenses incurred by him as the Agency, with the consent of the Minister, may determine.
 (5) A member of the Committee whose term of office expires by effluxion of time shall be eligible for re-appointment as such member.
3. (1) There shall be a chairman of the Committee who shall be appointed by the Minister from amongst the members of the Committee.
 (2) Subject to the provisions of this Schedule, the chairman of the Committee shall hold office as such chairman for such period and on such other terms and conditions as the Minister may determine.
 (3) The Minister may at any time remove the chairman of the Committee from his office as such chairman.
 (4) The chairman of the Committee may at any time resign from office as such chairman by letter addressed to the Minister.
 (5) The chairman of the Committee shall be paid such remuneration and allowances for expenses incurred by him as the Agency, with the consent of the Minister, may determine.
4. A member of the Committee shall be disqualified for holding and shall cease to hold office if he is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to a term of imprisonment or penal servitude.
5. The Committee shall hold such and so many meetings as may be necessary for the performance of its functions.
6. The Minister may fix the date, time and place of the first meeting of the Committee.
7. The quorum for a meeting of the Committee shall—
 - (a) if the number of members of the Committee is 5, be 3, and
 - (b) if the number of members of the Committee is more than 5, be 4.
8. At a meeting of the Committee—
 - (a) the chairman of the Committee shall, if present, be the chairman of the meeting, and
 - (b) if and so long as the chairman of the Committee is not present or if the office of chairman is vacant, the members of the Committee who are present shall choose one of their number to be chairman of the meeting.
9. The chairman of the Committee, and each other member of the Committee, present at a meeting shall have a vote.

10. Every question at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.
11. The Committee may act notwithstanding one or more than one vacancy among its members.
12. Subject to the provisions of this Schedule, the Committee shall regulate, by standing orders or otherwise, the procedure and business of the Committee.