



Number 34 of 1998

INDUSTRIAL DEVELOPMENT (ENTERPRISE IRELAND) ACT 1998

REVISED

Updated to 7 January 2020

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All Acts up to and including the *Consumer Insurance Contracts Act 2019 (53/2019)*, enacted 26 December 2019, and all statutory instruments up to and including the *Industrial Development (Amendment) Act 2019 (Commencement) Order 2020 (S.I. No. 62 of 2020)*, made 10 March 2020, were considered in the preparation of this Revised Statutory Instrument.

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INDUSTRIAL DEVELOPMENT (ENTERPRISE IRELAND) ACT 1998

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AN ACT TO MAKE FURTHER PROVISION FOR THE DEVELOPMENT OF INDUSTRY, TRADE AND ENTERPRISE AND FOR THAT PURPOSE TO ESTABLISH AN AGENCY OF FORFÁS TO BE KNOWN AS ENTERPRISE IRELAND, TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE DISSOLUTION OF FORBAIRT AND AN BORD TRÁCHTÁLA — THE IRISH TRADE BOARD, TO AMEND THE INDUSTRIAL DEVELOPMENT ACTS, 1986 TO 1995, THE SHANNON FREE AIRPORT DEVELOPMENT COMPANY LIMITED (AMENDMENT) ACT, 1986, THE METROLOGY ACT, 1996, AND THE NATIONAL STANDARDS AUTHORITY OF IRELAND ACT, 1996, AND TO PROVIDE FOR RELATED MATTERS. [13th July, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

Short title and collective citation.

1.—(1) This Act may be cited as the Industrial Development (Enterprise Ireland) Act, 1998.

(2) The Industrial Development Acts, 1986 to 1995, and this Act (other than *Part III* in so far as it relates to the Legal Metrology Service, *section 35* and *Part VIII*) may be cited together as the Industrial Development Acts, 1986 to 1998.

(3) The Shannon Free Airport Development Company Limited Acts, 1959 to 1995, and *section 35* of this Act may be cited together as the Shannon Free Airport Development Company Limited Acts, 1959 to 1998.

(4) The Metrology Acts, 1980 to 1996, and *Part III* in so far as it relates to the Legal Metrology Service and *section 49* may be cited together as the Metrology Acts, 1980 to 1998.

(5) The *National Standards Authority of Ireland Act, 1996*, and *sections 50* and *51* may be cited together as the National Standards Authority of Ireland Acts, 1996 and 1998.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

“the Act of 1986” means the *Industrial Development Act, 1986*;

“the Act of 1993” means the *Industrial Development Act, 1993*;

“the Act of 1995” means the *Industrial Development Act, 1995*;

“the Agency” means Enterprise Ireland established under *section 6*;

“An Bord Tráchtála” means An Bord Tráchtála — The Irish Trade Board;

“An Foras” means An Foras Áiseanna Saothair;

“the Board” in *Part II*, means the Board of the Agency;

“the chief executive officer” means the chief officer of the Agency appointed under *section 13*;

“establishment day” means the day appointed by the Minister under *section 3* to be the establishment day;

“functions” includes powers and duties, and reference to the performance of functions includes, as respects powers and duties, references to the exercise of the powers and the performance of the duties;

“IDA” means the Industrial Development Agency (Ireland);

“the Minister” means the Minister for Enterprise, Trade and Employment;

“the NSAI” means the National Standards Authority of Ireland;

“recognised trade unions and associations” means the trade unions and staff associations recognised by Forfás, the Agency, IDA or NSAI, as the case may be, for the purpose of negotiations which are concerned with the transfer of staff to Forfás, the Agency, IDA or NSAI, as the case may be, as well as remuneration, conditions of employment or working conditions of employees;

“remuneration” includes allowances for expenses, benefits-in-kind and superannuation;

“subsidiary” in *Part II*, means a subsidiary acquired or formed and registered by the Agency pursuant to *section 5* of the Act of 1995;

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.

(2) In this Act—

- (a) a reference to a section or Part is to a section or Part of this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is to a 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, adapted or extended by or under any subsequent enactment including this Act.

Establishment
day.

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

Annotations

Editorial Notes:

- E1** Power pursuant to section exercised (23.07.1998) by *Industrial Development (Enterprise Ireland) Act 1998 (Establishment Day) Order 1998* (S.I. No. 252 of 1998).

Repeals. 4.—Each enactment mentioned in *column (2)* of the *Schedule* to this Act is hereby repealed, with effect from the establishment day, to the extent specified opposite that mention in *column (3)* of that Schedule.

Expenses. 5.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

ENTERPRISE IRELAND

Establishment of Enterprise Ireland. 6.—(1) There shall stand established on the establishment day an agency of Forfás to be known as Enterprise Ireland to perform the functions assigned to it by 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.

Annotations

Modifications (not altering text):

C1 References construed (16.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 17, S.I. No. 304 of 2014.

References to agencies of Forfás

17. On and after the dissolution day, a reference in any enactment to Enterprise Ireland, IDA or Science Foundation Ireland as an agency of Forfás shall be construed as a reference to Enterprise Ireland, IDA or Science Foundation Ireland as appropriate.

Functions of Agency.

7.—(1) The functions of the Agency shall be—

- (a) to develop industry and enterprise in the State,
- (b) to promote, assist and develop the marketing of goods,
- (c) to promote, assist and develop the marketing of service industries (within the meaning of the Act of 1986),
- (d) to assist enterprises in strategy assessment and formulation,
- (e) to develop the technological base and the capacity of enterprises to innovate and undertake research, development and design,
- (f) to strengthen the skills base in industry,
- (g) to provide services which support such development,
- (h) to make investments in and provide supports to industrial undertakings which comply with the requirements of the enactments for the time being in force,
- (i) to administer such schemes, grants and other financial facilities requiring the disbursement of European Union and such other funds as may from time to time be authorised by the Minister with the concurrence of the Minister for Finance,
- (j) to apply for and receive, in the State or elsewhere, any trade marks, licences, protections or concessions in connection with trade or the marketing of

goods or services, and in relation thereto, to do all such things as the Agency considers necessary or desirable for the purposes of its functions,

F1[(k) to carry out such other functions as may from time to time be assigned to it by the Minister.]

(2) The Agency shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.

(3) The Agency may perform any of its functions through or by a member of its staff or a member of the staff of Forfás seconded to it duly authorised by the Agency in that behalf.

(4) Nothing in this Part of this Act shall be construed as affecting or limiting in any manner the existing functions of any Minister of the Government in relation to exports.

(5) The Agency shall, in respect of the promotion, assistance or development of the marketing and promotion of any goods or services in relation to which a Minister of the Government exercises any function, act in consultation with that Minister of the Government.

Annotations

Amendments:

- F1** Substituted (31.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 41(a), S.I. No. 304 of 2014.

Modifications (not altering text):

- C2** Functions under subs. (1)(i) transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 34 of 1998	Industrial Development (Enterprise Ireland) Act 1998	Sections 7(1)(i), 14(11), 18(2) and (3), 22(2) and (3) and 36(2) and (3)
...

F2[Power of Agency to make loans to certain industrial undertakings or bodies corporate

7A. (1) Where, in the opinion of the Agency, an industrial undertaking satisfies the relevant requirements, the Agency may, subject to such terms and conditions as it may determine, make a loan out of moneys at its disposal to—

- (a) an industrial undertaking, or
- (b) a body corporate owning, controlling or managing, or participating in the ownership, control or management of the undertaking.

(2) The Agency shall not, without the prior permission of the Government, expend more than €7,500,000 in providing a loan or a series of loans to any one industrial undertaking or body corporate under this section. Preference may be given to industrial undertakings or body corporates that are located in the border counties of Louth, Cavan, Donegal, Leitrim, Monaghan and Sligo.

(3) (a) In this section, ‘loan’ means a loan which is not convertible into shares in a body corporate.

(b) In this section and in *section 7B*, ‘relevant requirements’ means, in relation to an industrial undertaking, the requirements specified in subsections (3) and (4) of section 21 of the Act of 1986.

(c) In this section and in *sections 7B* and *7C*, ‘industrial undertaking’ has the same meaning as it has in *section 8*.

(4) This section is in addition to, and not in substitution for, any other power of the Agency to lend moneys by or under the **Industrial Development Act 1995** or any other enactment.]

Annotations

Amendments:

F2 Inserted (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 3, S.I. No. 62 of 2020.

Editorial Notes:

E2 Previous affecting provision: section inserted by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), s. 7, not commenced; repealed (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 5, S.I. No. 62 of 2020.

F3[Power of Agency to purchase shares etc.

7B. (1) Subject to this section, where in the opinion of the Agency, an industrial undertaking satisfies the relevant requirements, the Agency may, subject to such terms and conditions as it may determine—

- (a) purchase or take shares or convertible debt instruments, to any extent it considers desirable, in the body corporate owning, controlling or managing, or participating in the ownership, control or management of such an industrial undertaking, or

(b) form, or take part with other persons in the formation of, such bodies corporate.

(c) preference may be given to industrial undertakings or body corporates that are located in the border counties of Louth, Cavan, Donegal, Leitrim, Monaghan and Sligo.

(2) The Agency shall not, without the prior approval of the Minister, purchase or take shares or convertible debt instruments under this section if to do so would result in the Agency holding or having the right to hold on conversion of shares or a debt instrument or instruments—

(a) more than half in nominal value of the equity share capital (within the meaning of section 7(11) of the Companies Act 2014) of a body corporate, or

(b) more than half in nominal value of shares carrying voting rights (other than voting rights which arise only in specified circumstances) in a body corporate.

(3) The Agency shall not, without the prior permission of the Government, expend, in the aggregate, on the purchase or taking of shares or convertible debt instruments in any one body corporate referred to in subsection (1)(a), the higher of—

(a) €7,500,000, or

(b) €7,500,000 in excess of the aggregate amount of such expenditure for which the prior permission of the Government has previously been obtained.

(4) Where the Agency has already purchased or taken, or is purchasing or taking, shares or convertible debt instruments in a body corporate (in this subsection referred to as the 'relevant body corporate') in accordance with subsection (1), the Agency may, without the need to satisfy itself as to further compliance with the relevant requirements and subject to such terms and conditions as it may determine—

(a) purchase, take or receive further shares or convertible debt instruments in the relevant body corporate or another body corporate in the exercise of pre-emption or other rights in respect of, or arising from, the transfer or holding of shares or convertible debt instruments or the issue of new shares or convertible debt instruments, in the relevant body corporate,

(b) purchase, take or receive shares or convertible debt instruments in another body corporate which has common shareholders and directors to the relevant body corporate, where the other body corporate has been or is being established to hold intellectual property rights or other assets held or created by the relevant body corporate,

(c) in a case where the Agency is proposing to sell its shares or convertible debt instruments in the relevant body corporate to another body corporate, accept shares or convertible debt instruments in that other body corporate in full or part consideration for the shares or convertible debt instruments in sale, or

(d) convert its convertible shares or convertible debt instruments in the relevant body corporate or in another body corporate.

(5) In this section—

'convertible debt instrument' means a loan note, loan stock or other financial instrument for the provision of loan finance which—

(a) has been or may be offered or issued by a body corporate to the Agency,

(b) is convertible into shares in the body corporate, and

(c) is repayable or redeemable on demand by the Agency or otherwise in accordance with the terms of that convertible debt instrument;

'convertible shares' means shares which are convertible into shares of another class in the same body corporate;

'shares' includes convertible shares and, where the context so requires, an option or other instrument which confers a right to acquire or subscribe for shares.]

Annotations

Amendments:

F3 Inserted (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 3, S.I. No. 62 of 2020.

Editorial Notes:

E3 Previous affecting provision: section inserted by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), s. 7, not commenced; repealed (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 5, S.I. No. 62 of 2020.

F4[Aggregate limit on investment aid

7C. Without the prior permission of the Government, the total amount of money—

(a) granted or guaranteed to a particular industrial undertaking under sections 21 to 30 of the Act of 1986, or

(b) expended in that same undertaking or body corporate in the making of a loan under *section 7A* or the purchase or taking of shares or convertible debt instruments under *section 7B*,

shall not exceed in the aggregate the higher of—

(i) €15,000,000, or

(ii) €15,000,000 in excess of the aggregate amount of such grants, guarantees, investments and other such financial facilities for which the prior permission of the Government has previously been obtained.]

Annotations

Amendments:

F4 Inserted (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 3, S.I. No. 62 of 2020.

Editorial Notes:

E4 Previous affecting provision: section inserted by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), s. 7, not commenced; repealed (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 5, S.I. No. 62 of 2020.

F5[Application of certain provisions of Part III of Act of 1986

7D. Sections 35 to 37 of the Act of 1986 shall apply to *sections 7A to 7C* as if—

(a) in section 35—

(i) 'this Part or sections 7A to 7C of the Act of 1998' were substituted for 'this Part',

(ii) 'loan or loan guarantee or subscription for a convertible debt instrument within the meaning of section 7B of the Act of 1998' were substituted for 'loan guarantee',

(iii) 'grant, loan, guarantee, subscription or purchase' were substituted for 'grant, guarantee or purchase', and

(iv) 'Authority or Enterprise Ireland' were substituted for 'Authority',

(b) in section 36—

(i) 'grant or other payment or the exercise of another right' were substituted for 'grant or other payment',

(ii) 'this Part or sections 7A to 7C of the Act of 1998,' were substituted for 'this Part,' in the first place that it occurs, and 'this Part and sections 7A to 7C of the Act of 1998,' were substituted for 'this Part,' in the second place that it occurs, and

(iii) 'an industrial undertaking or body corporate, as the case may be,' were substituted for 'an industrial undertaking' in each place that it occurs,

and

(c) in section 37—

(i) 'grant, loan, subscription' were substituted for 'grant' in each place that it occurs, and

(ii) 'this Part or sections 7A to 7C of the Act of 1998,' were substituted for 'this Part,'

and with any other necessary modifications.]

Annotations

Amendments:

F5 Inserted (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 3, S.I. No. 62 of 2020.

Editorial Notes:

E5 Previous affecting provision: section inserted by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), s. 7, not commenced; repealed (7.01.2020) by *Industrial Development (Amendment) Act 2019* (46/2019), s. 5, S.I. No. 62 of 2020.

Ministerial
directives to
Agency.

8.—(1) The Minister may give the Agency such general policy directives as he or she considers appropriate to be followed by the Agency in the exercise of its functions.

(2) A directive under *subsection (1)* shall not apply to any individual industrial undertaking or to giving preference to one area over others in regard to the location of an industrial undertaking otherwise than as part of a general review of industrial policy for the country as a whole indicated in the directive.

(3) The Minister shall cause any directive given by him or her under *subsection (1)* to be laid before each House of the Oireachtas within 21 days after it has been so given.

(4) The Agency shall comply with any directive given to it under this section and shall set out the directive in its annual report and shall include in its annual report an account of the actions which it has undertaken to give effect to the directive.

(5) In this section "industrial undertaking" includes an undertaking ancillary to industry and a service industry (within the meaning of the Act of 1986).

Membership of
Board of Agency
and term of
office of
members.

- 9.—(1) The members of the Agency shall constitute its Board.
- (2) The Board shall consist of 12 members.
- (3) The Board shall include the chief executive officer.
- (4) The members of the Board (other than the chief executive officer) shall, as soon as may be after the establishment day, be appointed by the Minister, with the consent of the Minister for Finance.
- (5) The Minister shall designate one member of the Board as chairperson.
- (6) There shall be paid to the members of the Board such remuneration (if any) and such allowances for expenses incurred by them as the Minister, with the consent of the Minister for Finance, may from time to time determine.
- (7) Each member of the Board shall hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister determines at the time of his or her appointment.
- (8) On the anniversary of the establishment day and thereafter on each anniversary of the establishment day, two of the members of the Board (other than the chairperson and the chief executive officer) shall retire from office.
- (9) The members to retire under *subsection (8)* in any year shall be those who have been longest in office since their last appointment, and where there are members whose appointment was made on the same day and who are obliged to retire under *subsection (8)*, the members to retire shall, unless such members otherwise agree, be determined by lot.
- (10) A member of the Board shall not serve for more than 10 consecutive years.
- (11) A member of the Board shall be disqualified from being such a member where he or she—
- (a) is adjudged bankrupt,
 - (b) makes a composition or arrangement with creditors,
 - (c) is convicted of an indictable offence in relation to a company,
 - (d) is convicted of an offence involving fraud or dishonesty, or
 - (e) is disqualified or restricted from being a director of any company (within the meaning of the Companies Acts, 1963 to 1990).
- (12) A member of the Board may at any time resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon receipt of the letter by the Minister, whichever is the later.
- (13) A member of the Board may at any time for stated reasons be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Agency of the functions of the Agency.
- (14) If a member of the Board dies, resigns, retires, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Board who occasioned the casual vacancy.
- (15) A member of the Board whose period of membership expires by the effluxion of time shall be eligible for re-appointment as a member of the Board.

(16) The Minister shall, in so far as is practicable and having regard to relevant experience, ensure an equitable balance between men and women in the composition of the Board.

Chairperson of Board.

10.—(1) The term of office of the chairperson of the Board shall be 5 years.

(2) Where the chairperson of the Board ceases to be a member of the Board he or she shall also thereupon cease to be chairperson of the Board.

(3) The chairperson of the Board may at any time resign his or her office as chairperson by letter sent to the Minister and the resignation shall, unless previously withdrawn in writing, take effect at the commencement of the meeting of the Board held next after the Board has been informed by the Minister of the resignation.

(4) The chairperson of the Board shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *subsection (2) or (3)*, hold office until the expiration of his or her period of membership of the Board and, if he or she is re-appointed as a member of the Board, he or she shall be eligible for re-appointment as chairperson of the Board.

Meeting of Board.

11.—(1) The Board shall hold such and as many meetings as may be necessary for the performance of its functions.

(2) The Minister, in consultation with the chairperson of the Board, shall fix the time of the first meeting of the Board.

(3) The quorum for a meeting of the Board shall be 5.

(4) At a meeting of the Board—

(a) the chairperson of the Board shall, if present, be the chairperson of the meeting, and

(b) if and so long as the chairperson of the Board is not present or if the office of the chairperson is vacant, the members of the Board who are present shall choose one of their members to be chairperson of the meeting.

(5) At a meeting of the Board, each member of the Board present, including the chairperson, shall have a vote and any question on which a vote is required in order to establish the Board's view on the matter shall be determined by a majority of votes of the members of the Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second and casting vote.

(6) The Board may act notwithstanding one or more vacancies among its members.

(7) Subject to this Act, the Board shall regulate, by standing orders or otherwise, the procedure and business of the Board.

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

12.—(1) Where a member of the Board—

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

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

(c) is regarded pursuant to [section 19 of the European Parliament Elections Act, 1997](#), as having been elected to the European Parliament to fill a vacancy, or

(d) becomes a member of a local authority,

he or she shall thereupon cease to be a member of the Board.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament shall, while he or she is so entitled or is such a representative, be disqualified from becoming a member of the Board.

(3) A person who is a member of a local authority shall be disqualified from becoming a member of the Board.

Chief executive officer of Agency. **13.—**(1) There shall be a chief officer of the Agency who shall be known, and is referred to in this Act, as the chief executive officer.

(2) The chief executive officer shall be appointed by the Board.

(3) The chief executive officer shall hold office for such term being not more than a period of 10 years and upon and subject to such terms and conditions (including remuneration) as the Board, with the consent of the Minister and the Minister for Finance, may determine.

(4) The chief executive officer shall, for the duration of his or her appointment, become an *ex officio* member of the Board and the board of Forfás.

(5) The chief executive officer shall carry on and manage and control generally the administration and business of the Agency and shall perform such other functions as may be determined by the Board.

(6) The chief executive officer shall not hold any other office or position or carry on any business without the consent of the Board.

Committees. **14.—**(1) The Board may establish committees to assist and advise it in relation to the performance of any of its functions.

(2) The Board may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently exercised or performed by a committee.

(3) The Board shall decide the terms of reference for any committee and may regulate the procedure of any such committee.

(4) The members of a committee shall be appointed by the Board.

(5) A committee shall consist of such number of members as the Board thinks proper.

(6) A committee may include persons who are not members of the Board or staff of the Agency.

(7) A member of a committee who fails to perform his or her functions may be removed at any time for stated reasons by the Board.

(8) The Board may at any time dissolve a committee.

(9) The Board may appoint a person to be chairperson of a committee.

(10) The acts of a committee shall be subject to confirmation by the Board save where the Board dispenses with the necessity for such confirmation.

(11) There shall be paid out of the income of the Agency to members of a committee such allowances for expenses incurred by them in the discharge of their functions as the Board may determine with the consent of the Minister and the Minister for Finance.

(12) In this section “a committee” means a committee of the Agency established under this section.

Annotations

Modifications (not altering text):

- C3** Functions under subs. (11) transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.
- C4**

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

- (a) the enactments specified in Schedule 1, and
- (b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1
Enactments

...

Part 2
1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 34 of 1998	Industrial Development (Enterprise Ireland) Act 1998	Sections 7(1)(i), 14(11), 18(2) and (3), 22(2) and (3) and 36(2) and (3)
...

Disclosure of interests.

15.—(1) Where the chief executive officer, a member of the Board, a member of the staff of the Agency or of Forfás seconded to the Agency, a member of a committee established under *section 14*, or a consultant, adviser or other person engaged by the Agency, or a member of the board or staff of a subsidiary, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Board, or a committee established under this Act or the board of a subsidiary, he or she shall—

- (a) disclose to the Board or committee or the board of the subsidiary, as the case may be, the nature of his or her interest in advance of any consideration of the matter,
- (b) neither influence nor seek to influence a decision in relation to the matter,
- (c) take no part in any consideration of the matter,

(d) if he or she is the chief executive officer, a member of the Board, the staff of the Agency or of the staff of Forfás seconded to the Agency or a member of a committee established under *section 14* or a member of the board or staff of the subsidiary, withdraw from the meeting for so long as the matter is being discussed or considered and shall not vote or otherwise act as such chief executive or member in relation to the matter.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

(a) he or she or any member of his or her household, or any nominee of his or her or any member of his or her household, is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,

(b) he or she or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,

(c) he or she or any member of his or her household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or

(d) any member of his or her household has a beneficial interest in, or material to, such a matter.

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of his or her or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the Board or the board of the subsidiary, as the case may be, and particulars of the determination shall be recorded in the minutes of the meeting concerned.

(5) Where a disclosure is made to the Board or a committee pursuant to *subsection (1)* or the board of a subsidiary, particulars of the disclosure shall be recorded in the minutes of the meeting concerned.

(6) Where a person referred to in this section fails to make a disclosure in accordance with this section, the Board or the board of the subsidiary, as the case may be, shall decide the appropriate action (including removal from office or termination of contract) to be taken.

Disclosure of information.

16.—(1) Save as otherwise provided by law and *subsection (3)*, a person shall not, without the consent of the Board, other than in respect of *paragraph (f)*, disclose any information obtained by him or her while performing (or as a result of having performed) duties as—

(a) a member of the Board,

(b) the chief executive officer,

(c) a member of the staff of the Agency or of Forfás seconded to the Agency,

(d) a member of a committee established under *section 14*,

(e) an adviser or consultant to the Agency or an employee of such person whilst performing duties relating to such advice or consultation, or

(f) a member of the board or staff of, or adviser or consultant to or an employee of such person relating to such advice or consultation, any subsidiary, without the consent of the board of the subsidiary.

(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 £1,500.

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

Seal of Agency. **17.—(1)** The Agency shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal of the Agency shall be authenticated by the signature of—

(a) the chairperson of the Board, or

(b) (i) a member of the Board, or

(ii) an officer of the Agency,

authorised by the Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Agency and every document purporting to be an instrument made by the Agency and to be sealed with the seal of the Agency (purporting to be authenticated in accordance with *subsection (2)*) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

(4) 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 Agency by a member of the staff of the Agency or a person generally or specially authorised by the Board for that purpose.

Staff of Agency
and subsidiaries
of Agency.

18.—F6[...]

Annotations

Amendments:

F6 Repealed (31.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 5(7), S.I. No. 304 of 2014.

Editorial Notes:

E6 Previous affecting provision: functions under subss. (2), (3) transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Staff of Forfás
seconded to
Agency.

19.—F7[...]

Annotations**Amendments:**

- F7** Repealed (31.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 6(4), S.I. No. 304 of 2014.

Superannuation. **20.—F8[...]**

Annotations**Amendments:**

- F8** Repealed (31.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 7(14), S.I. No. 304 of 2014.

Consultants and advisers.

21.—The Agency may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions and any fees payable by the Agency to a consultant or adviser engaged under this section shall be paid by the Agency out of moneys at its disposal.

Annual report and accounts.

22.—(1) The Agency shall submit, in such form as the Minister may direct, an annual report of its activities after the end of the financial year to which it refers and the Minister shall cause copies of the report to be laid before each House of the Oireachtas not later than six months after the end of that financial year. Every such annual report shall specifically comment on innovation, export performance, training performance, research and development performance, job creation and job losses.

(2) The Agency shall keep, in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of money received and expended by it and, in particular, shall keep in such form as aforesaid all special accounts as the Minister may from time to time direct.

(3) The accounts of the Agency shall be submitted annually to the Comptroller and Auditor General for audit at such times as the Minister, with the consent of the Minister for Finance, shall direct and when so audited, shall, together with the report of the Comptroller and Auditor General thereon, be presented to the Minister, who shall cause copies thereof to be laid before each House of the Oireachtas.

Annotations**Modifications (not altering text):**

- C5** Section applied with modifications (9.04.2014) by *County Enterprise Boards (Dissolution) Act 2014* (13/2014), s. 13(5), S.I. No. 160 of 2014.

Final accounts and final annual reports of county enterprise boards

13. ...

(5) Section 22 of the Act of 1998 shall apply with the necessary modifications in relation to an annual report prepared under this section.

- C6** Functions under subss. (2), (3) transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

C7

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

- (a) the enactments specified in Schedule 1, and
- (b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...
No. 34 of 1998	Industrial Development (Enterprise Ireland) Act 1998	Sections 7(1)(i), 14(11), 18(2) and (3), 22(2) and (3) and 36(2) and (3)
...

Information to Minister and Forfás.

23.—(1) The Agency shall supply the Minister with such information regarding its activities as the Minister may, from time to time, require.

(2) The Agency, any subsidiary of it and any committee established under *section 14* shall provide Forfás with such information as Forfás may, from time to time, require for the purposes of its functions.

Premises of Agency.

24.—(1) The Agency may for the purposes of providing premises necessary for the due performance of its functions—

- (a) purchase or take on lease any land, offices, laboratories or premises,
- (b) build, equip and maintain offices, laboratories and premises.

(2) The Agency may sell or lease any land, offices, laboratories or premises held by it which are no longer required for the due performance of its functions.

PART III

DISSOLUTION OF FORBAIRT AND AN BORD TRÁCHTÁLA AND TRANSITIONAL PROVISIONS

Dissolution of Forbairt and An Bord Tráchtála.

25.—(1) Forbairt and An Bord Tráchtála shall, on the establishment day, become and be dissolved.

(2) References in any Act of the Oireachtas (other than the [Metrology Act, 1996](#)) passed before the establishment day or in any instrument made before that day under an Act of the Oireachtas (other than the [Metrology Act, 1996](#)) to Forbairt or An Bord Tráchtála shall, on and after that day, be construed as references to the Agency.

Transfer of assets and liabilities of Forbairt (other than in respect of the Legal Metrology Service) and An Bord Tráchtála.

26.—(1) The following shall be and hereby are transferred to the Agency on the establishment day—

- (a) all property and rights relating to such property held or enjoyed immediately before that day by Forbairt (other than in respect of the Legal Metrology Service) and An Bord Tráchtála or any trustee or agent thereof acting on its behalf, and
- (b) all liabilities incurred before that day by Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála or any trustee or agent thereof acting on its behalf that had not been discharged before that day,

and, accordingly, without any further conveyance, transfer or assignment—

- (i) the said property, real and personal, shall, on that day, vest in the Agency for all the estate, term or interest for which, immediately before that day, it was so vested in Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála, as the case may be, but subject to all trusts and equities affecting the property subsisting and capable of being performed,
- (ii) the said rights shall, as on and from that day, be enjoyed by the Agency, and
- (iii) the said liabilities shall, as on and from that day, be liabilities of the Agency.

(2) All moneys, stocks, shares and securities transferred to the Agency by this section that, on the establishment day, are standing in the name of Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála or any said trustee or agent thereof shall, upon the request of the Agency, be transferred into its name.

(3) Every right and liability transferred to the Agency by this section may, on or after the establishment day, be sued on, recovered or enforced by or against the Agency in its own name and it shall not be necessary for the Agency to give notice to the person whose right or liability is transferred by this section of the transfer.

Transfer of assets and liabilities of Forbairt relating to Legal Metrology Service.

27.—(1) The following shall be and hereby are transferred to the NSAI on the establishment day—

- (a) all property and rights relating to such property held or enjoyed immediately before that day by Forbairt relating to the Legal Metrology Service or any trustee or agent thereof acting on its behalf, and
- (b) all liabilities incurred before that day by Forbairt relating to the Legal Metrology Service or any trustee or agent thereof acting on its behalf that had not been discharged before that day,

and, accordingly, without any further conveyance, transfer or assignment—

- (i) the said property, real and personal, shall, on that day, vest in the NSAI for all the estate, term or interest for which, immediately before that day, it was so vested in Forbairt but subject to all trusts and equities affecting the property subsisting and capable of being performed,
- (ii) the said rights shall, as on and from that day, be enjoyed by the NSAI, and
- (iii) the said liabilities shall, as on and from that day, be liabilities of the NSAI.

(2) All moneys, stocks, shares and securities transferred to the NSAI by this section that, on the establishment day, are standing in the name of Forbairt relating to the

Legal Metrology Service or any said trustee or agent thereof shall, upon the request of the NSAI, be transferred into its name.

(3) Every right and liability transferred to the NSAI by this section may, on or after the establishment day, be sued on, recovered or enforced by or against the NSAI in its own name and it shall not be necessary for the NSAI to give notice to the person whose right or liability is transferred by this section of the transfer.

Preservation of certain continuing contracts and adaptation of references to Forbairt (other than in respect of Legal Metrology Service) or An Bord Tráchtála.

28.—(1) Every bond, guarantee or other security of a continuing nature made or given by or on behalf of Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála to any person or given by any person to and accepted by or on behalf of Forbairt or An Bord Tráchtála and every contract or agreement made between Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála, or any trustee or agent thereof acting on its behalf, and any other person and in force but not fully executed and completed immediately before the establishment day shall continue in force on or after that day and shall be construed and have effect as if the name of the Agency was substituted therein for that of Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála or, as appropriate, its said trustee or agent and shall be enforceable by or against the Agency.

(2) References to Forbairt (other than in respect of the Legal Metrology Service) or An Bord Tráchtála, or any trustee or agent thereof acting on its behalf, contained immediately before the establishment day in the memorandum and articles of association of any company shall, on and after that day, be construed as references to the Agency.

Preservation of certain continuing contracts relating to Legal Metrology Service.

29.—Every bond, guarantee or other security of a continuing nature made or given by or on behalf of Forbairt relating to the Legal Metrology Service to any person or given by any person to and accepted by or on behalf of Forbairt relating to the Legal Metrology Service and every contract or agreement made between Forbairt relating to the Legal Metrology Service or any trustee or agent thereof acting on its behalf, and any other person and in force but not fully executed and completed immediately before the establishment day shall continue in force on or after that day and shall be construed and have effect as if the name of the NSAI was substituted therein for that of Forbairt or, as appropriate, its said trustee or agent and shall be enforceable by or against the NSAI.

Saving for certain acts.

30.—Nothing in this Act shall affect the validity of any act that was done before the establishment day by or on behalf of Forbairt or An Bord Tráchtála and every such act shall, if and in so far as it was operative immediately before that day, have effect on and after that day as if it had been done by or on behalf of the Agency, or the NSAI, as the case may be.

Pending legal proceedings.

31.—Where, immediately before the establishment day, any legal proceedings are pending in any court or tribunal and Forbairt or An Bord Tráchtála, or any trustee or agent thereof acting on its behalf, is a party to the proceedings, the name of the Agency or the NSAI, as the case may be, shall be substituted for that of Forbairt and the name of the Agency shall be substituted therein for that of An Bord Tráchtála or, as appropriate, the said trustee or agent thereof and the proceedings shall not abate by reason of such substitution.

Final accounts.

32.—(1) Final accounts of Forbairt and An Bord Tráchtála shall be drawn up by the Agency as soon as may be after the establishment day in such form as may be approved of by the Minister, in respect of the accounting year or part of an accounting year of Forbairt and An Bord Tráchtála ending immediately before the establishment day.

(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Agency to the Comptroller and Auditor General for audit, and, immediately

after the audit, a copy of the income and expenditure account and of the balance sheet and of such other (if any) of the accounts as the Minister may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

PART IV

GRANTS AND INDUSTRIAL INCENTIVES

Grants to Forfás,
IDA and
Enterprise
Ireland.

33.—The Act of 1993 is hereby amended by the substitution for [section 11](#) of the following section:

“Grants to Forfás, IDA and Enterprise Ireland.

11.—(1) There may be paid by the Minister to Forfás, IDA and Enterprise Ireland, out of moneys provided by the Oireachtas, grants of such amounts as the Minister, with the consent of the Minister for Finance, may sanction—

(a) to enable Forfás, IDA and Enterprise Ireland to meet its administration and general expenses, and

(b) to discharge its obligations and liabilities.

(2) The aggregate amount of grants made by the Minister to Forfás and the Agencies under *subsection (1)(b)* (other than grants to which [section 14\(3\)](#) of the Act of 1986 applies) shall not exceed £1,500,000,000.”.

Industrial
Incentives.

34.—(1) The Act of 1993 is hereby amended by the substitution for [section 12](#) of the following:

“Industrial Incentives.

12.—(1) Without the prior permission of the Government, the total amount of money granted to a particular industrial undertaking under any section referred to in [section 34](#) of the Act of 1986 shall not exceed in the aggregate the higher of—

(a) £4,000,000, or

(b) £4,000,000 in excess of the aggregate amount of grants for which the prior permission of the Government has previously been obtained.

(2) Enterprise Ireland and IDA may make grants on such terms and conditions as they think proper towards employment of a person in a service industry (within the meaning of the Act of 1986).”.

(2) The Act of 1986 is hereby amended by the substitution—

(a) in [section 24\(5\)](#), for “£750,000” of “£1,200,000”,

(b) in [section 25\(4\)](#), for “£1,250,000” of “£2,000,000”,

(c) in [section 26\(2\)](#), for “£750,000” of “£1,200,000”,

(d) in [section 27\(2\)](#), for “£300,000” of “£480,000”,

(e) in [section 28\(4\)](#), for “£2,000,000” of “£3,200,000”,

(f) in [section 29\(4\)\(a\)](#) and (b), for “£250,000” of “£400,000”,

(g) in [section 29\(7\)\(a\)](#) and (b), for “£500,000” of “£800,000”,

- (h) in section 30(5)(a) and (b), for “£250,000” of “£400,000”,
 (i) in section 30(6)(a) and (b), for “£500,000” of “£800,000”, and
 (j) in section 31(4) for “£1,500,000” of “£2,500,000”.

Grants to
Shannon Free
Airport
Development Co.
Ltd.

35.—The *Shannon Free Airport Development Company Limited (Amendment) Act, 1986*, is hereby amended—

- (a) in section 2, by the substitution for “£150,000,000” (inserted by section 10 of the *Industrial Development (Amendment) Act, 1991*) of “£200,000,000”, and
 (b) in section 3, by the substitution for “£200,000,000” (inserted by section 8 of the Act of 1995) of “£250,000,000”.

PART V

STAFF OF INDUSTRIAL DEVELOPMENT AGENCY (IRELAND)

Staff of IDA and
subsidiaries of
IDA.

36.—F9[...]

Annotations

Amendments:

- F9** Repealed (16.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 8(7), S.I. No. 304 of 2014.

Editorial Notes:

- E7** Previous affecting provision: functions under subss. (2), (3) transferred and references to “Department of Finance” and “Minister for Finance” construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed as per F-note above.

Staff of Forfás
seconded to IDA.

37.—F10[...]

Annotations

Amendments:

- F10** Repealed (16.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 9(4), S.I. No. 304 of 2014.

Superannuation.

38.—F11[...]

Annotations

Amendments:

- F11** Repealed (16.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 10(14), S.I. No. 304 of 2014.

PART VI

MATTERS RELATING TO FORFÁS AND IDA

Transfer of staff
of Bord Tráchtála
to Forfás.

39.—(1) Every person who immediately before the establishment day is a member of the staff of An Bord Tráchtála shall, on that day, be transferred to and become a member of the staff of Forfás.

(2) Save in accordance with a collective agreement negotiated with any recognised trade unions or staff associations concerned, a person referred to in *subsection (1)* shall not, while in the service of Forfás, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (including those relating to tenure of office) than the scale of pay to which he or she was entitled and the terms and conditions of service (including conditions relating to tenure of office) to which he or she was subject immediately before the establishment day.

(3) Superannuation benefits granted under schemes to persons who were members of the staff of An Bord Tráchtála who are transferred to and become members of the staff of Forfás shall continue as if granted under paragraph 3 of the Second Schedule to the Act of 1993 and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled before their transfer.

Transfer of staff
of Foras to
Forfás.

40.—(1) The Minister may designate such and so many members of the staff of An Foras as he or she may decide to be transferred to Forfás.

(2) A member of the staff of An Foras designated under *subsection (1)* shall be transferred to and become a member of the staff of Forfás.

(3) Save in accordance with a collective agreement negotiated with any recognised trade unions and staff associations concerned, a member of the staff of An Foras transferred to the staff of Forfás under *subsection (2)*, shall not, while he or she is in the service of Forfás, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (including those relating to tenure of office) than the scale of pay to which he or she was entitled and the terms and conditions of service (including those relating to tenure of office) to which he or she was subject immediately before his or her transfer.

(4) Superannuation benefits granted under schemes to persons who were members of the staff of An Foras who are transferred to and become members of the staff of Forfás shall continue as if granted under paragraph 3 of the Second Schedule to the Act of 1993 and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled before their transfer.

(5) This section shall come into operation on such day as the Minister may appoint by order.

Annotations**Editorial Notes:**

E8 Power pursuant to section exercised (13.05.1999) by *Industrial Development (Enterprise Ireland) Act 1998 (Section 40) (Commencement) Order 1999* (S.I. No. 127 of 1999).

2. The 13th day of May, 1999, is hereby appointed as the day on which section 40 of the Industrial Development (Enterprise Ireland) Act, 1998 (No. 34 of 1998), shall come into operation.

Disclosure of interests in relation to Forfás or IDA.

41.—(1) Where the chief executive officer, a member of the board of Forfás or IDA, a member of the staff of Forfás or IDA or of Forfás seconded to IDA, a member of a committee established under [section 10\(2\)](#) (inserted by [section 46](#)) of the Act of 1993, or a consultant, adviser or other person engaged by Forfás or IDA, or a member of the board or staff of a subsidiary, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the board of Forfás or IDA, as the case may be, or a committee established under [section 10\(2\)](#) of the Act of 1993 or the board of a subsidiary, he or she shall—

- (a) disclose to the board concerned or committee or the board of the subsidiary, as the case may be, the nature of his or her interest in advance of any consideration of the matter,
- (b) neither influence nor seek to influence a decision in relation to the matter,
- (c) take no part in any consideration of the matter,
- (d) if he or she is the chief executive officer, a member of the board or the staff of Forfás or IDA or of the staff of Forfás seconded to IDA or a member of a committee established under [section 10\(2\)](#) of the Act of 1993 or a member of the board or staff of the subsidiary, withdraw from the meeting for so long as the matter is being discussed or considered and shall not vote or otherwise act as such chief executive officer or member in relation to the matter.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

- (a) he or she or any member of his or her household, or any nominee of his or her or any member of his or her household, is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,
- (b) he or she or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,
- (c) he or she or any member of his or her household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or
- (d) any member of his or her household has a beneficial interest in, or material to, such a matter.

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of his or her or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the Board or the board of the subsidiary, as the case may be, and particulars of the determination shall be recorded in the minutes of the meeting concerned.

(5) Where a disclosure is made to the board of Forfás or IDA or a committee pursuant to *subsection (1)* or the board of a subsidiary, particulars of the disclosure shall be recorded in the minutes of the meeting concerned.

(6) Where a person referred to in this section fails to make a disclosure in accordance with this section, the Board or the board of the subsidiary, as the case may be, shall

decide the appropriate action (including removal from office or termination of contract) to be taken.

(7) In this section “subsidiary” means a subsidiary acquired or formed and registered by either Forfás or IDA pursuant to [section 5](#) of the Act of 1995.

(8) This section shall come into operation on the establishment day.

F12[Prosecution of summary offences

42.—(1) Proceedings in relation to a summary offence under [section 16](#) may be brought and prosecuted by the Agency.

(2) Proceedings in relation to a summary offence under paragraph 4 of the Second Schedule to the Act of 1993 may be brought and prosecuted by IDA.]

Annotations

Amendments:

F12 Substituted (31.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 41(b), S.I. No. 304 of 2014.

PART VII

AMENDMENT OF INDUSTRIAL DEVELOPMENT ACTS, 1986 TO 1995

Amendment of [section 28](#) of Act of 1986. **43.**—[Section 28](#) of the Act of 1986 is hereby amended by the deletion in subsection (1) of “Following consultation with An Comhairle Oiliúna,”.

Amendment of “Agency” etc., in Act of 1993.

44.—(1) [Section 2](#) (1) of the Act of 1993 is hereby amended by—

(a) the deletion of the definition of “Agency”, and

(b) the substitution for the definition of “the Minister” of the following definitions:

“the Minister’ means the Minister for Enterprise, Trade and Employment;

‘subsidiary’ means a subsidiary acquired or formed and registered by either Forfás or IDA pursuant to [section 5](#) of the [Industrial Development Act, 1995](#).”.

(2) The Act of 1993 (other than [section 9\(3\)](#) thereof and paragraph 2(2) of the Second Schedule thereto) is hereby amended by the substitution for “each Agency” and “either Agency” in each place those words occur of “IDA”.

(3) [Section 9\(1\)](#) and (2) of the Act of 1993 is hereby amended by the substitution for “Forbairt” of “Enterprise Ireland”.

(4) [Section 9\(3\)](#) of the Act of 1993 is hereby amended by the substitution for “and each Agency” of “, Enterprise Ireland and IDA”.

(5) This section shall come into operation on the establishment day.

Amendment of functions of Forfás.

45.—(1) [Section 6](#) of the Act of 1993 is hereby amended—

(a) by the substitution for paragraphs (b) and (c) of the following paragraphs:

“(b) to advise on the development and co-ordination of policy for Enterprise Ireland, IDA and such other bodies (established by or under statute) as the Minister may by order designate,

(c) to encourage the development of industry, science and technology, innovation, marketing and human resources in the State,”

and

(b) in paragraph (e), by the substitution for “Forbairt” of “Enterprise Ireland”, and

(c) by the insertion after subsection (2) of the following subsection:

“(3) Every order made by the Minister 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 subsequent 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.”

(2) This section shall come into operation on the establishment day.

Committees of
Forfás and IDA.

46.—(1) **Section 10** of the Act of 1993 is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

“(2) The Board of Forfás or IDA may establish committees to assist and advise it in relation to the performance of any of its functions.

(3) The Board may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently exercised or performed by a committee.

(4) The Board shall decide the terms of reference for any committee established by it and may regulate the procedure of any such committee.

(5) The members of a committee shall be appointed by the Board which established it.

(6) A committee shall consist of such number of members as the Board which established it thinks proper.

(7) A committee may include persons who are not members of the Board or staff of Forfás or IDA.

(8) A member of a committee who fails to perform his or her functions may be removed at any time for stated reasons by the Board who appointed him or her.

(9) The Board may at any time dissolve a committee established by it.

(10) The Board may appoint a person to be chairperson of a committee established by it.

(11) The acts of a committee shall be subject to confirmation by the Board which established it save where the Board dispenses with the necessity for such confirmation.

(12) There shall be paid out of the income of Forfás or IDA to members of a committee established by it such allowances for expenses incurred by them in the discharge of their functions as the Board concerned may determine with the consent of the Minister and the Minister for Finance.

(13) In this section ‘a committee’ means a committee of Forfás or IDA established under this section.”

(2) Any committee established by Forfás or IDA under **section 10(2)** of the Act of 1993 which was in being immediately before the passing of this Act shall continue as if established under that section as so amended by this section.

Amendment of
Schedules to Act
of 1993.

47.—(1) The First Schedule to the Act of 1993 is hereby amended—

(a) in paragraph 3(1), by the substitution for “the date of the commencement of this Act” of “the establishment day”, and

(b) in paragraph 4, by the deletion of subparagraph (3).

(2) The Second Schedule to the Act of 1993 is hereby amended—

(a) in paragraph 2, by the substitution in subparagraph (2) for “either Agency or any other body established under this Act” of “IDA, Enterprise Ireland or the National Standards Authority of Ireland”,

(b) in paragraph 3, by the insertion after subparagraph (3) of the following:

“(4) A scheme under this paragraph shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next subsequent 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.”,

and

(c) the substitution for paragraphs 4 and 5 of the following paragraph—

“4. (1) Save as otherwise provided by law and paragraph 3, a person shall not without the consent of the Board, other than in respect of clause (f) of this subparagraph, disclose any information obtained by him or her while performing (or as a result of having performed) duties as—

(a) a member of the Board,

(b) the Chief Executive Officer,

(c) a member of the staff of Forfás or IDA or of Forfás seconded to IDA,

(d) a member of a committee established under section 10(2),

(e) an adviser or consultant to Forfás or IDA or an employee of such person whilst performing duties relating to such advice or consultation,

(f) a member of the board or staff of, or adviser or consultant to or an employee of such person relating to such advice or consultation, any subsidiary, without the consent of the board of the subsidiary.

(2) A person who contravenes *subparagraph (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(3) Nothing in this section shall prevent disclosure of information in a report made to Forfás or IDA or on behalf of Forfás or IDA to the Minister.”.

(3) *Paragraph (a) of subsection (1) and paragraphs (a) to (c) of subsection (2)* shall come into operation on the establishment day.

Amendment of
Act of 1995.

48.—(1) The Act of 1995 is hereby amended—

(a) in section 5, by the substitution for subsection (5) of the following subsection:

“(5) In this section ‘industrial development body’ means Forfás, IDA or Enterprise Ireland.”,

(b) in section 6, by the substitution—

- (i) in subsection (1) for “and the Agencies” of “IDA and Enterprise Ireland”,
 - (ii) in subsection (2), for “an Agency” of “IDA or Enterprise Ireland”,
 - (iii) in subsection (3)(b), for “the Agencies” of “IDA and Enterprise Ireland”,
and
 - (iv) in subsection (5), for “the Agencies” of “IDA and Enterprise Ireland”,
and
 - (c) in section 9, by the substitution for “or the Agencies” of “, IDA or Enterprise Ireland”.
- (2) This section shall come into operation on the establishment day.

PART VIII

MATTERS RELATING TO THE LEGAL METROLOGY SERVICE AND THE NATIONAL STANDARDS
AUTHORITY OF IRELAND

Amendment of
Metrology Act,
1996.

49.—(1) The *Metrology Act, 1996*, is hereby amended—

- (a) in sections 4(1), 7(4), 9(1) and (3), 11, 12(4) and 21(1), (2) and (5), by the substitution for “Forbairt” of “the National Standards Authority of Ireland”.
- (b) in section 7(2), by the deletion of “within Forbairt, and the First and Second Schedules to the *Industrial Development Act, 1993*, shall have effect accordingly.”, and
- (c) in section 9(1)(a), after “Forfás” by the insertion of “or the National Standards Authority of Ireland”.

(2) The Legal Metrology Service established under section 7(1) of the *Metrology Act, 1996*, shall be transferred to and continue within the NSAI.

(3) A person appointed to be an inspector by Forbairt under section 9 of the *Metrology Act, 1996*, whose appointment is in force immediately before the establishment day, shall be deemed to have been appointed under that section by the NSAI.

(4) Any organisation designated under section 21 of the *Metrology Act, 1996*, by Forbairt, where the designation is in force immediately before the establishment day, shall be deemed to have been designated by the NSAI.

(5) This section shall come into operation on the establishment day.

Transfer of staff
of Forfás to NSAI.

50.—F13[...]

Annotations**Amendments:**

- F13** Repealed (16.07.2014) by *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), s. 14(8), S.I. No. 304 of 2014.

Editorial Notes:

- E9** Previous affecting provision: power pursuant to subs. (5) exercised (9.12.2008) by *Industrial Development (Enterprise Ireland) Act 1998 (Section 50) Commencement Order 2008* (S.I. No. 530 of 2008); section repealed as per F-note above.

Amendment of
National
Standards
Authority of
Ireland Act, 1996.

51.—The **National Standards Authority of Ireland Act, 1996**, is hereby amended—

(a) in section 7(1)—

- (i) by the substitution in paragraph (k) for “standards; and” of “standards;”,
- (ii) by the substitution in paragraph (l) for “conformity.” of “conformity; and”,
and
- (iii) the insertion after paragraph (l) of the following paragraph:

“(m) to promote the use and application of metrology in the State.”,

(b) in section 30—

- (i) by the deletion of subsection (1), and
- (ii) in subsection (4), by the substitution for “section” of “Act”,

(c) in section 31, by the insertion after “under” of “Part III of”,

(d) in the Second Schedule, by the deletion of paragraphs 3(9) and (10), 4 and 6,
and

(e) in paragraph 5(2) of the Second Schedule, by the insertion after “offence” of
“and shall be liable on summary conviction to a fine not exceeding £1,500.”.

PART IX

VACANCIES IN STAFF OF FORFÁS, ENTERPRISE IRELAND, IDA OR NSAI

Filling of
vacancies in staff
of Forfás,
Enterprise
Ireland, IDA or
NSAI.

52.—Where a vacancy arises for a position in the staff of Forfás, the Agency, F14[**IDA, NSAI or Science Foundation Ireland**], a member of the staff of any of those bodies may make an application to fill the vacancy and his or her application shall be considered by the body in which the vacancy occurs.

Annotations**Amendments:**

- F14** Substituted (25.07.2003) by *Industrial Development (Science Foundation Ireland) Act 2003* (30/2003), s. 37, S.I. No. 325 of 2003.

Section 4.

SCHEDULE

ENACTMENTS REPEALED

Number and Year (1)	Enactment (2)	Extent of Repeal (3)
No. 20 of 1959	Export Promotion Act, 1959	The whole Act
No. 20 of 1963	Export Promotion (Amendment) Act, 1963	The whole Act
No. 1 of 1967	Export Promotion (Amendment) Act, 1967	The whole Act
No. 4 of 1969	Export Promotion (Amendment) Act, 1969	The whole Act
No. 34 of 1971	Export Promotion (Amendment) Act, 1971	The whole Act
No. 18 of 1974	Export Promotion (Amendment) Act, 1974	The whole Act
No. 21 of 1977	Export Promotion (Amendment) Act, 1977	The whole Act
No. 18 of 1980	Export Promotion (Amendment) Act, 1980	The whole Act
No. 4 of 1983	Export Promotion (Amendment) Act, 1983	The whole Act
No. 39 of 1983	Export Promotion (Amendment) Act, 1983	The whole Act
No. 13 of 1987	Export Promotion (Amendment) Act, 1987	Section 3
No. 30 of 1987	Science and Technology Act, 1987	Section 3
No. 22 of 1991	Trade and Marketing Promotion Act, 1991	The whole Act
No. 30 of 1991	Industrial Development (Amendment) Act, 1991	The whole Act
No. 14 of 1994	Trade and Marketing Promotion (Amendment) Act, 1994	The whole Act
No. 19 of 1993	Industrial Development Act, 1993	Section 7



Number 34 of 1998

INDUSTRIAL DEVELOPMENT (ENTERPRISE IRELAND) ACT 1998

REVISED

Updated to 7 January 2020

About this Revised Act

This Revised Statutory Instrument presents the text of the Instrument as it has been amended since it was made, and preserves the format in which it was made.

Related legislation

Industrial Development Acts 1986 to 2019: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Industrial Development (Amendment) Act 2019* (46/2019), s. 6(2)). The Acts in this group are:

- *Industrial Development Act 1986* (9/1986)
- *Industrial Development (Amendment) Act 1991* (30/1991), in so far as it relates to the *Industrial Development Act 1986*
- *Industrial Development Act 1993* (19/1993)
- *Industrial Development Act 1995* (28/1995), insofar as it relates to the *Industrial Development Acts 1986 to 1993*
- *Industrial Development (Enterprise Ireland) Act 1998*(34/1998), other than Part III insofar as it relates to the Legal Metrology Service, s. 35 and Part VIII
- *Industrial Development (Science Foundation Ireland) Act 2003* (30/2003)
- *Industrial Development Act 2006* (34/2006)
- *Industrial Development Act 2009* (11/2009)
- *Industrial Development (Science Foundation Ireland) (Amendment) Act 2013* (36/2013), other than ss. 7, 10
- *County Enterprise Boards (Dissolution) Act 2014* (4/2014)
- *Industrial Development (Forfás Dissolution) Act 2014* (13/2014), other than Part 7
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), Part 3
- *Industrial Development (Amendment) Act 2019* (46/2019), other than s. 4

Annotations

This Revised Statutory Instrument is annotated and includes textual and non-textual amendments and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Statutory Instrument, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Industrial Development (Amendment) Act 2019* (46/2019)
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019)
- *Industrial Development (Forfás Dissolution) Act 2014* (13/2014)
- *County Enterprise Boards (Dissolution) Act 2014* (4/2014)
- *Industrial Development (Science Foundation Ireland) (Amendment) Act 2013* (36/2013)
- *Industrial Development (Science Foundation Ireland) Act 2003* (30/2003)

All Acts up to and including *Consumer Insurance Contracts Act 2019* (53/2019), enacted 26 December 2019, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Industrial Development (Enterprise Ireland) Act 1998 (Section 50) Commencement Order 2008* (S.I. No. 530 of 2008)
- *Industrial Development (Enterprise Ireland) Act, 1998 (Section 40) (Commencement) Order 1999* (S.I. No. 127 of 1999)
- *Industrial Development (Enterprise Ireland) Act 1998 (Establishment Day) Order 1998* (S.I. No. 252 of 1998)

All statutory instruments up to and including *Industrial Development (Amendment) Act 2019 (Commencement) Order 2020* (S.I. No. 62 of 2020), made 10 March 2020, were considered in the preparation of this revision.