

# SCOTTISH NATIONAL INVESTMENT BANK ACT 2020

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## EXPLANATORY NOTES

### THE ACT

#### **Part 1 - Establishment of the Bank**

##### *Chapter 1 – Scottish Minister’s Duty to Establish the Bank*

6. Section 1 (Duty to Establish the Bank) Section 1 places a duty on the Scottish Ministers to establish the Bank as a public company limited by shares. The Scottish National Investment Bank p.l.c is to have its registered office in Scotland and be owned solely by the Scottish Ministers. The Bank’s Articles of Association are to be framed in accordance with Chapter 2 (the Bank’s Articles of Association on establishment).

##### *Chapter 2 - The Bank’s articles of association on establishment*

##### *Section 2 (The Bank’s vision)*

7. Section 2 makes provision requiring that the Bank’s articles of association include a statement of the vision for the Bank.

##### *Section 3 (The Bank’s objects)*

8. Section 3 makes provision, for inclusion in Articles, about the Bank’s main object and ancillary objects (or objectives). The Bank’s main object situates the role of the Bank within the economic development powers devolved to the Scottish Government. The ancillary objects direct the Bank’s investment towards delivering against a broad range of outcomes which include creating and shaping new markets, promoting both environmental and social wellbeing, advancing equality and promoting fair work.

##### *Section 4 (Ethical investment standards)*

9. Section 4 provides that the Bank’s Board is responsible for instituting and implementing ethical standards that are aligned to the Bank’s objects and strategic missions, and for putting in place processes to ensure that the Bank adheres to those standards when making investment decisions. It further provides that responsibility for implementing these standards can be delegated to an appropriate body within the Bank’s governance structures or retained at Board level.

##### *Section 5 (Balanced scorecard)*

10. Section 5 makes provision, for inclusion in the Articles, for the preparation of a balanced scorecard to assist in the Bank’s preparation of reports. The balanced scorecard approach is a recognised performance management strategy that enables organisations to track performance against a range of outcomes. In preparing the balanced scorecard

document, the Bank must consider the economic, social, environmental, or any other (financial or non-financial) impacts of its investments.

### ***Section 6 (General powers)***

11. Section 6 makes provision, for inclusion in the Articles, about the general powers of the Bank.

### ***Section 7 (Borrowing powers)***

12. Section 7 makes provision, for inclusion in the Articles, about the borrowing powers of the Bank. Under the fiscal framework agreement between the Scottish and UK governments<sup>1</sup>, the Scottish Government has limited powers to borrow finance. Borrowing by the Bank from parties other than the Scottish Ministers would be counted towards the Scottish Government's borrowing limit. Restrictions are therefore placed on the Bank's ability to borrow to ensure it does not impact upon the Scottish Government's fiscal position.

### ***Section 8 (Ownership)***

13. Section 8 makes provision, for inclusion in the Articles, about the ownership of the Bank, namely, that it can only be owned by the Scottish Ministers.

### ***Section 9 (Directors: appointment)***

14. Section 9 makes provision, for inclusion in the Articles, about the composition of the Board and sets out parameters for the appointment of Directors to the Board of the Bank.

### ***Section 10 (Directors: tenure)***

15. Section 10 makes provision, for inclusion in the Articles, about the tenure of Directors appointed to the Board of the Bank.

### ***Section 11 (Remuneration)***

16. Section 11 makes provision, for inclusion in the Articles, about the remuneration of the Bank's directors and staff, namely that this is to be determined by the directors subject to any direction from the Scottish Ministers.

### ***Section 12 (Committees)***

17. Section 12 makes provision, for inclusion in the Articles, for the establishment of separate audit and risk committees and their respective functions.

### ***Section 13 (Gender equality strategy)***

18. Section 13 places a duty on the Bank to prepare and publish a gender equality strategy. The strategy must be developed in consultation with relevant persons and updated periodically. It also sets out specific requirements for what must be included in the strategy.

### ***Section 14 (Entrenched provisions)***

19. Section 14 makes provision, for inclusion in the Articles, that the Articles mentioned in Chapter 2 can only be amended or repealed in accordance with section 31 (procedure for modifying entrenched provisions).

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<sup>1</sup> Fiscal framework: agreement between the Scottish and UK Governments: