

*These notes refer to the Industrial Development Act (Northern Ireland) 2002 (c.1) which received Royal Assent on 7 February 2002*

# Industrial Development Act (Northern Ireland) 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 1 (and Schedule 1): Invest Northern Ireland (Invest NI)*

*Section 1 (and Schedule 1)* establishes Invest NI and sets out its status, constitution and procedures.

*Schedule 1 (Paragraph 2)* enables the Department to appoint a chairperson and members to the Board of Invest NI. It is intended that the Board consist of a number of members deemed appropriate to secure the cost-effective discharge of its business, and must contain a chairperson and between 10 and 20 members.

The Department shall ensure that those appointed comprise persons experienced in the various activities of Invest NI and, in so far as possible, are representative of the Northern Ireland community. The Act also allows for a member of Invest NI to be appointed as deputy chairperson.

*Schedule 1 (Paragraph 3)* relates to the tenure of those appointed to Invest NI. Appointments shall be for a period of up to five years. A chairperson (deputy chairperson) or member may resign by notice in writing to the Department and the Department may, if deemed necessary, remove any person from Invest NI by notice in writing.

*Schedule 1 (Paragraph 4)* provides that remuneration and allowances of members shall be matters for the Department. It is intended to remunerate both the chairperson and members of Invest NI. All members shall be entitled to travelling expenses and other costs associated with membership of Invest NI.

*Schedule 1 (Paragraph 5)* provides that the first chief executive of Invest NI be appointed by the Department. This post was filled in advance of Invest NI being fully established which allowed the chief executive (designate) to assist the chairperson with preparatory work including the appointment of key staff. All subsequent appointments to the post of chief executive will be made by Invest NI itself and shall not require the approval of the Department. It also requires Invest NI to appoint such other staff as it considers appropriate.

*Schedule 1(Paragraph 6)* allows for staff employed within the Northern Ireland Civil Service to be seconded to Invest NI.

*Schedule 1(Paragraph 7)* requires Invest NI to pay to its employees such remuneration and allowances (as well as paying and maintaining such pensions or gratuities) as it may determine with the approval of the Department and DFP.

*Schedule 1(Paragraph 8)* enables Invest NI to establish committees but with the proviso that the appointment of committee members who are not members of Invest NI shall be with the Department's consent.

*Schedule 1(Paragraph 9)* provides for the powers of delegation to both committees and staff.

*Schedule 1(Paragraphs 10 to 12)* deal with proceedings governing meetings of Invest NI and its committees.

*Schedule 1 (Paragraphs 13 to 15)* addresses the application of the seal of Invest NI.

*Schedule 1(Paragraph 16)* allows for the funding of Invest NI by the Department. As a Non-Departmental Public Body Invest NI can in turn make payments within the terms and conditions set out in the respective relationship documents, as agreed with the Department and DFP.

*Schedule 1 (Paragraph 17)* requires Invest NI to provide proper accounts for each financial year and to make these accounts available to both the Department and the Comptroller & Auditor General (C&AG). Upon receipt of the subsequent C&AG report the Department shall lay the accounts and report before the Assembly.

*Schedule 1(Paragraph 18)* requires Invest NI to provide an annual report and for the Department, in turn, to lay this report before the Assembly.

### ***Section 2 (and Schedule 3): Functions of Invest NI***

*Section 2 (and Schedule 3)* provides for the functions of Invest NI by transferring existing industrial development functions to it. In broad terms this means that, from the appointed day, Invest NI will exercise those functions previously carried out by the Department under Part III of the Industrial Development (NI) Order 1982 and Article 3 of the Energy Efficiency (NI) Order 1999.

*Section 2 (Subsection 1) (a)* transfers to Invest NI, (subject to the exceptions outlined in *Section 2 (2)*), the powers currently exercised by the Department under Articles 7 to 11 and 13 of the Industrial Development (NI) Order 1982. This will enable Invest NI to provide financial assistance to industrial undertakings.

*Section 2 (Subsection 1) (b)* transfers to Invest NI the powers in Article 3 of the Energy Efficiency (NI) Order 1999. This provision enables Invest NI to take action for the purpose of promoting the efficient use of energy in industry.

*Section 2 (Subsection 3)* makes it incumbent upon Invest NI to advise the Department on general formulation of industrial development policy.

*Section 2 (Subsections 4 & 5)* enables the Department to issue directions to Invest NI having firstly consulted with it.

*Schedule 3 (Paragraphs 1 to 14)* effects amendments consequential on the transfer of powers from the Department to Invest NI, as outlined in Clause 2.

*Schedule 3 (Paragraph 15)* amends Schedule 2 of the Industrial Development (NI) Order in relation to the compulsory acquisition of land by Invest NI. This will enable the Department to make a vesting order on behalf of Invest NI where Invest NI proposes to acquire land otherwise than by agreement.

*Schedule 3 (Paragraphs 16 to 18)* effects consequential amendments to the Energy Efficiency (NI) Order 1999.

***Section 3 (and Schedule 2): Dissolution of IDB, LEDU and IRTU and abolition of certain functions of NITB***

*Section 3 (and Schedule 2)* dissolves the existing bodies. It also makes provision for the transfer to Invest NI of the appropriate property, rights, liabilities and staff and makes the necessary transitional arrangements.

*Section 3 (Subsections 1 to 3)* effects, from the appointed day, the dissolution of IDB, LEDU and IRTU.

*Section 3 (Subsection 4)* removes, from the appointed day, NITB's powers to provide assistance under Article 11 of the Tourism (NI) Order 1992 for the purposes of providing or improving tourist accommodation. The power to provide assistance for these purposes will in future be exercised by Invest NI under Article 7 of the Industrial Development (NI) Order 1982 as amended by this Act.

*Schedule 2 (Paragraphs 1 to 7)* makes provision for the transfer of the relevant property, rights, liabilities and staff to Invest NI. It also specifies the transitional arrangements regarding the preparation and laying of the necessary accounts and reports for the bodies being dissolved.

***Section 4: Interpretation***

*Section 4* provides for the interpretation of certain terms used in the Act.

***Section 5: Amendments and repeals***

*Section 5 (Subsections 1 and 4)* gives effect to Schedule 3 and 4 to the Act.

*Section 5 (Subsection 2)* removes a restriction in Article 7(6) of the Industrial Development (NI) Order 1982 with regard to the taking of equity as a means of offering financial assistance. Current policy thinking no longer sees the taking of equity as a 'last resort' and this amendment enables Invest NI to consider the

taking of equity on the same basis as other options when considering offers of financial assistance.

*Section 5 (Subsection 3)* is a technical amendment to deal with a minor anomaly in the charging of interest on loans made under the Industrial Development (NI) Order 1982.

*Schedule 4* sets out the statutory provisions to be repealed.

***Section 6: Temporary saving for certain functions of the Department under Industrial Development Order in relation to gas and electricity undertakings***

*Section 6* retains within the Department the powers under the Industrial Development (NI) Order 1982 to financially assist the gas and electricity industries, responsibility for which will continue to rest with DETI.

This is a temporary saving until the issue can be fully addressed in forthcoming energy legislation. The saving expires three years from the appointed day.

***Section 7: Commencement***

*Section 7* gives the Department the powers to bring the provisions of the Act into force by order. Invest NI will be established on 1<sup>st</sup> April 2002.

***Section 8: Short title***

*Section 8* gives the short title of the Act. This is the title by which the Act will usually be referred to.