Industrial Development Act (Northern Ireland) 2002

2002 CHAPTER 1

An Act to establish Invest Northern Ireland to exercise certain existing functions in relation to industrial development; to dissolve the Industrial Development Board for Northern Ireland, the Local Enterprise Development Unit and the Industrial Research and Technology Unit; to abolish certain functions of the Northern Ireland Tourist Board; to amend the Industrial Development (Northern Ireland) Order 1982; and for related purposes. [7th February 2002]

Invest Northern Ireland

1.—(1) There shall be a body corporate to be known as Invest Northern Ireland (in this Act referred to as "INI").

(2) Schedule 1 (which makes provision about INI) shall have effect.

Functions of INI

2.—(1) INI shall exercise the functions which immediately before the appointed day were functions of the Department under—

(a) Articles 7 to 11 and 13 of the Industrial Development Order; and

(b) Article 3 of the Energy Efficiency (Northern Ireland) Order 1999 (NI 3).

(2) Subsection (1)(a) is subject to—

(a) any amendment of the Industrial Development Order which is made by section 5 or Schedule 3 and affects the functions in question; and

(b) section 6 (temporary saving for certain functions of Department under that Order in relation to gas and electricity undertakings).

(3) INI shall also advise the Department generally on the formulation of its industrial development policy.

(4) The functions of INI shall be exercised in accordance with such directions of a general or specific nature as the Department may give to INI.

(5) Before giving any directions under subsection (4), the Department shall consult INI.

Dissolution of IDB, LEDU and IRTU and abolition of certain functions of Tourist Board

3.—(1) On the appointed day the IDB is dissolved.

(2) On the appointed day LEDU is dissolved.

(3) On the appointed day the Department shall cease to maintain within the Department—

(a) the Executive of the IDB; and

(b) IRTU.

(4) On the appointed day—

(a) the functions of the Tourist Board in connection with the provision of financial assistance under Article 11 of the Tourism (Northern Ireland) Order 1992 (NI 3) for the purposes of providing or improving tourist accommodation are abolished; and

(b) accordingly, in Article 11(1)(c)(iii) of that Order the words "tourist accommodation or" shall cease to have effect.

(5) Schedule 2 (which makes provision for the transfer to INI of the property, rights, liabilities and staff of LEDU, certain property, rights, liabilities and staff of the Tourist Board and certain property, rights and liabilities of the Department and contains other transitional provisions) shall have effect.

Interpretation

4.—(1) In this Act—

"the appointed day" means the day appointed under section 7(1);

"the Department" means the Department of Enterprise, Trade and Investment;

"the Industrial Development Order" means the Industrial Development (Northern Ireland) Order 1982 (NI 15);

"the IDB" means the Industrial Development Board for Northern Ireland;

"INI" has the meaning given by section 1(1);

"IRTU" means that part of the Department known as the Industrial Research and Technology Unit;

"LEDU" means the Local Enterprise Development Unit (being a company limited by guarantee [F1]. . .);

"the Tourist Board" means the Northern Ireland Tourist Board.

(2) This Act shall be construed as one with the Industrial Development Order.

(3) Any power of giving directions or making determinations conferred by any provision of this Act or the Industrial Development Order includes power to vary or revoke any direction or determination given or made under that provision.

F1 S. 4(1): words in definition of "LEDU" omitted (1.10.2009) by virtue of Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 202** (with art. 10)

Amendments and repeals

Subs. (1)—Amendments

(2) Article 7(6) of the Industrial Development Order (which restricts the giving of financial assistance by way of the acquisition of shares or stock in a company) shall cease to have effect.

(3) In Article 7(7) of that Order (additional interest chargeable where instalment of principal or interest on loan in arrears) for "instalment" (where it twice occurs) substitute "amount".

Subs. (4)—Repeals

[F2]Temporary saving for certain functions of Department under Industrial Development Order in relation to gas and electricity undertakings

6.—(1) Nothing in this Act affects the functions of the Department under Article 7, 8 or 9 of the Industrial Development Order in so far as they are exercisable in relation to—

(a) the undertaking of the holder of a licence or exemption under Part II of the Electricity (Northern Ireland) Order 1992 (NI 1); or

(b) the undertaking of the holder of a licence or exemption under Part II of the Gas (Northern Ireland) Order 1996 (NI 2).

(2) This section shall cease to have effect on the expiration of the period of three years beginning with the appointed day.

F2 prosp. rep. by 2003 NI 6

Status: *Point in time view as at 01/04/2016.*
Changes to legislation: *Industrial Development Act (Northern Ireland) 2002 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement

7.—(1) The preceding provisions of this Act shall come into operation on such day as the Department may by order appoint[F3].

(2) An order under subsection (1) may contain such transitional provisions and savings as the Department thinks necessary or expedient.

F3 fully exercised by SR 2002/134

Short title

8. This Act may be cited as the Industrial Development Act (Northern Ireland) 2002.

Status: *Point in time view as at 01/04/2016.*
Changes to legislation: *Industrial Development Act (Northern Ireland) 2002 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 1

INVEST NORTHERN IRELAND

Status

1.—(1) INI shall not be regarded—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of INI shall not be regarded as property of, or held on behalf of, the Crown.

(3) Subject to the following provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c.33) applies to INI.

Membership, chairman, etc.

2.—(1) INI shall consist of —

(a) a chairman; and

(b) not fewer than 10 or more than 20 other members,

appointed by the Department.

(2) In making appointments under sub-paragraph (1), the Department shall—

(a) secure that each member has experience in a field of activity relevant to the discharge of the functions of INI; and

(b) as far as practicable secure that the members of INI (taken together) are representative of the community in Northern Ireland.

(3) The Department may appoint one of the members mentioned in sub-paragraph (1)(b) as deputy chairman of INI.

Tenure of office

3.—(1) Subject to the provisions of this Schedule, a member shall hold and vacate office in accordance with the terms of his appointment.

(2) A person shall not be appointed as a member for more than five years at a time.

(3) A person may at any time resign his office as a member by notice in writing to the Department.

(4) A person appointed as chairman or deputy chairman of INI—

(a) shall hold and vacate that office in accordance with the terms of his appointment;

(b) may resign that office by notice in writing to the Department; and

(c) shall cease to hold that office if he ceases to be a member.

(5) The Department may by notice in writing remove a person from office as a member or as chairman or deputy chairman of INI.

(6) A person who ceases (otherwise than by virtue of sub-paragraph (5)) to be a member or to be the chairman or deputy chairman of INI shall be eligible for re-appointment.

Remuneration, etc. of members

4.—(1) INI shall pay to its members such remuneration and allowances as the Department may determine.

(2) If—

(a) a person ceases to be a member or ceases to be the chairman or deputy chairman of INI; and

(b) it appears to the Department that there are special circumstances which make it right that he should receive compensation,

the Department may direct INI to make a payment of such amount as the Department may determine.

(3) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

Staff, etc.

5.—(1) INI shall have—

(a) a chief executive, with responsibility to INI for the carrying out of its functions and the management of its employees; and

(b) such other employees as INI may appoint.

(2) The first chief executive of INI shall be appointed by the Department.

(3) Every subsequent chief executive shall be appointed by INI.

6.—(1) INI may make arrangements with a Northern Ireland department for persons employed in the Northern Ireland civil service to be seconded to INI.

(2) Arrangements made with a department other than the Department of Finance and Personnel require the approval of that Department.

7.—(1) INI shall pay to its employees such remuneration and allowances as it may, with the approval of the Department and the Department of Finance and Personnel, determine.

(2) INI shall—

(a) pay, or make payments in respect of, such pensions or gratuities to or in respect of its employees or former employees as it may, with the approval of the Department and the Department of Finance and Personnel, determine; and

(b) provide and maintain such schemes (whether contributory or not) as it may determine, with the approval of the Department and the Department of Finance and Personnel, for the payment of pensions or gratuities to or in respect of its employees or former employees.

(3) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.

Committees

8.—(1) INI may establish committees.

(2) A person who is not a member of INI shall not, except with the approval of the Department, be appointed to a committee of INI.

(3) INI may pay to members of its committees who are neither members nor employees of INI such remuneration and allowances as INI may, with the approval of the Department, determine.

Delegation to committees and staff

9.—(1) INI may, to such extent as it may determine, delegate any of its functions to—

(a) any committee of INI;

(b) any employee of INI; or

(c) any person seconded to INI in accordance with arrangements made under paragraph 6.

(2) Any committee of INI may, to such extent as the committee may determine, delegate any functions of the committee to—

(a) any employee of INI; or

(b) any person seconded to INI in accordance with arrangements made under paragraph 6.

Proceedings

10.—(1) Subject to the following provisions of this paragraph and paragraph 11, INI may regulate—

(a) its own procedure (including quorum); and

(b) the procedure (including quorum) of its committees.

(2) INI shall make provision for a quorum for meetings of its committees to include at least one member or employee of INI.

11.—(1) A member who is in any way, directly or indirectly, interested in any matter which falls to be considered by INI shall disclose the nature of his interest at a meeting of INI and the disclosure shall be recorded in the minutes of the meeting.

(2) Where such a disclosure is made by any member in relation to any matter, he shall not take part in any deliberation or decision of INI with respect to the matter, if INI decides that the interest in question might prejudicially affect the member's consideration of the matter.

(3) For the purposes of this paragraph a notice given by a member at a meeting of INI to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any matter concerning the body or firm which falls to be considered by INI after the date of the notice shall be a sufficient disclosure of his interest.

(4) A member need not attend in person at a meeting of INI in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration at such a meeting.

(5) Sub-paragraphs (1) to (4) apply in relation to committees of INI as they apply in relation to INI.

12. The validity of any proceedings of INI, or of any of its committees, shall not be affected by—

(a) any vacancy among the members of INI or of members of the committee;

(b) any vacancy in the office of the chairman or deputy chairman of INI;

(c) any defect in the appointment of any one or more members or of the chairman or deputy chairman of INI; or

(d) any failure to comply with paragraph 11.

Application of seal and evidence

13. The application of the seal of INI shall be authenticated by the signature—

(a) of any member; or

(b) of any other person who has been authorised by INI (whether generally or specially) for that purpose.

14. A document purporting to be—

(a) duly executed by INI under its seal; or

(b) signed on its behalf,

shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

15. Any contract or instrument which if entered into or executed by an individual would not require to be**[**[F4] executed as a deed**]** may be entered into or executed on behalf of INI by any person generally or specially authorised by INI for that purpose.

F4 2005 NI 7

Finance

16.—(1) The Department may make payments to INI out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may, with the approval of the Department of Finance and Personnel, determine.

(3) INI shall not borrow money.

(4) Subject to sub-paragraph (5), INI shall pay to the Department all sums received by it in the course of, or in connection with, the carrying out of its functions.

(5) Sub-paragraph (4) shall not apply to such sums, or sums of such description, as the Department may, with the approval of the Department of Finance and Personnel, direct.

(6) Any sums received by the Department under sub-paragraph (4) shall be paid into the Consolidated Fund.

17.—(1) INI shall—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

(a) be in such form; and

(b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) INI shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

(a) the Department; and

(b) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts sent to him by INI under this paragraph; and

(b) send a copy of his report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.

Annual report

18.—(1) As soon as practicable after the end of each financial year, INI shall send to the Department a report on the carrying out of its functions during that year.

(2) The Department shall lay a copy of the report before the Assembly.

Paras. 19#21—Amendments

Interpretation

22. In this Schedule—

"financial year" means—

(a) the period beginning with the appointed day and ending on 31st March 2003; and

(b) any subsequent period of twelve months ending on 31st March; and

"member" means a member of INI.

SCHEDULE 2 Section 3

TRANSFER OF PROPERTY, RIGHTS, LIABILITIES AND STAFF, ETC.

Transfer of property, rights and liabilities of LEDU

1.—(1) All property, rights and liabilities to which LEDU is entitled or subject immediately before the appointed day shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

(a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but

(b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 3).

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, LEDU shall, so far as may be necessary for the purposes of this Act, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, LEDU before the appointed day.

(5) Anything which before the appointed day was done by or in relation to LEDU shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to LEDU immediately before the appointed day may be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Accounts and reports for LEDU: transitional arrangements

2.—(1) INI shall make arrangements for—

(a) a statement of accounts to be prepared in relation to LEDU; and

(b) a report to be prepared on the activities of LEDU,

for the period from 1st April 2001 to the appointed day.

(2) The statement of accounts and report shall—

(a) be in such form; and

(b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) INI shall, within such period after the appointed day as the Department may direct—

(a) send a copy of the statement of accounts to—

(i) the Department; and

(ii) the Comptroller and Auditor General; and

(b) send a copy of the report to the Department.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on the statement of accounts; and

(b) send a copy of his report to the Department.

(5) The Department shall lay before the Assembly—

(a) a copy of the report received under sub-paragraph (3)(b);

(b) a copy of the statement of accounts; and

(c) a copy of the Comptroller and Auditor General's report on the statement of accounts.

Transfer of staff of LEDU

3.—(1) Subject to sub-paragraphs (2) and (3), this paragraph applies to a person who immediately before the appointed day is employed by LEDU.

(2) This paragraph does not apply to a person if his contract of employment terminates on the day immediately before the appointed day.

(3) Where a person—

(a) has, prior to the appointed day, entered into a contract of employment with LEDU which is to come into effect on or after that day; and

(b) would, if the contract had come into operation before that day, have been a person to whom this paragraph applies,

he shall be treated as if he were a person to whom this paragraph applies.

(4) A contract of employment between a person to whom this paragraph applies and LEDU shall have effect from the appointed day as if originally entered into between that person and INI.

(5) Without prejudice to sub-paragraph (4)—

(a) all the rights, powers, duties and liabilities of LEDU under or in connection with the contract of employment are by virtue of this paragraph transferred to INI on the appointed day; and

(b) anything done before that day by or in relation to LEDU in respect of that contract or the employee is to be treated from that day as having been done by or in relation to INI.

(6) If a person informs LEDU that he objects to the transfer of his contract of employment under this paragraph—

(a) sub-paragraphs (4) and (5) do not apply in relation to him; and

(b) his contract of employment with LEDU is terminated immediately before the appointed day.

(7) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by LEDU by reason of—

(a) his transfer under this paragraph; or

(b) the termination of his contract of employment under sub-paragraph (6).

(8) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

Transfer of certain property, rights and liabilities of the Tourist Board

4.—(1) All property, rights and liabilities—

(a) to which the Tourist Board is entitled or subject immediately before the appointed day; and

(b) which were held, acquired or incurred for or in connection with the exercise of the functions mentioned in section 3(4)(a) (in this paragraph and paragraph 5 referred to as "the relevant functions"),

shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

(a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but

(b) does not apply to rights and liabilities under a contract of employment (which are dealt with by paragraph 5).

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the Tourist Board shall, so far as may be necessary for the purposes of the relevant functions, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, the Tourist Board before the appointed day.

(5) Anything which before the appointed day was done by or in relation to the Tourist Board for the purposes of or in connection with the relevant functions shall, if in effect immediately before that day, continue to have effect to the same extent as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to the Tourist Board immediately before the appointed day may, so far as it relates to the relevant functions, be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Transfer of certain staff of the Tourist Board

5.—(1) This paragraph applies to a person who—

(a) immediately before the appointed day is employed by the Tourist Board wholly or mainly for the purposes of the relevant functions; and

(b) is designated by order made by the Department for the purposes of this paragraph.

(2) A contract of employment between a person to whom this paragraph applies and the Tourist Board shall have effect from the appointed day as if originally entered into between that person and INI.

(3) Without prejudice to sub-paragraph (2)—

(a) all the rights, powers, duties and liabilities of the Tourist Board under or in connection with the contract of employment are by virtue of this paragraph transferred to INI on the appointed day; and

(b) anything done before that day by or in relation to the Tourist Board in respect of that contract or the employee is to be treated from that day as having been done by or in relation to INI.

(4) If a person informs the Tourist Board that he objects to the transfer of his contract of employment under this paragraph—

(a) sub-paragraphs (2) and (3) do not apply in relation to him; and

(b) his employment with the Tourist Board is terminated immediately before the appointed day.

(5) A person is not to be treated for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) as having been dismissed by the Tourist Board by reason of—

(a) his transfer under this paragraph; or

(b) the termination of his contract of employment under sub-paragraph (4).

(6) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.

(7) An order under this paragraph may designate a person either individually or as a member of a class or description of employees.

(8) Before making any order under this paragraph the Department shall consult—

(a) the Tourist Board;

(b) in the case of an order designating a person individually, that person; and

(c) in the case of an order designating a class or description of employees, such persons as appear to the Department to be representative of the class or description of employees concerned.

(9) The Statutory Rules (Northern Ireland) Order 1979 (NI 12) shall not apply to an order under this paragraph.

Transfer of certain assets and liabilities of the Department

6.—(1) All property, rights and liabilities—

(a) to which the Department is entitled or subject immediately before the appointed day; and

(b) which were held, acquired or incurred for or in connection with the exercise of its functions under the provisions mentioned in section 2(1) ("the transferred functions"),

shall on that day be transferred to, and by virtue of this sub-paragraph vest in, INI.

(2) Sub-paragraph (1)—

(a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph; but

(b) does not apply to rights and liabilities in relation to persons employed by the Department;

and, in accordance with subsection (1) of section 6, sub-paragraph (1)(b) does not apply in relation to the exercise of the functions of the Department mentioned in that subsection.

(3) In the construction and for the purposes of any statutory provision or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the Department shall, so far as may be necessary for the purposes of the transferred functions, be construed as a reference to INI.

(4) Nothing in this Act affects the validity of anything done by, or in relation to, the Department before the appointed day.

(5) Anything which before the appointed day was done by or in relation to the Department for the purposes of or in connection with the transferred functions shall, if in effect immediately before that day, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, INI.

(6) Anything (including any legal proceedings) in the process of being done by or in relation to the Department immediately before the appointed day may, so far as it relates to the transferred functions, be continued by or in relation to INI.

(7) A certificate issued by the Department that any property, rights or liabilities have been transferred to INI by sub-paragraph (1) shall be conclusive evidence of the transfer.

Accounts and reports for IDB: transitional arrangements

7.—(1) INI shall make arrangements for—

(a) a statement of accounts to be prepared in relation to the Executive of the IDB; and

(b) a report to be prepared on the activities of the IDB and the Executive of the IDB,

for the period from 1st April 2001 to the appointed day.

(2) The statement of accounts and report shall—

(a) be in such form; and

(b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) INI shall, within such period after the appointed day as the Department may direct—

(a) send a copy of the statement of accounts to—

(i) the Department; and

(ii) the Comptroller and Auditor General; and

(b) send a copy of the report to the Department.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on the statement of accounts; and

(b) send a copy of his report to the Department.

(5) The Department shall lay before the Assembly—

(a) a copy of the report received under sub-paragraph (3)(b);

(b) a copy of the statement of accounts; and

(c) a copy of the Comptroller and Auditor General's report on the statement of accounts.

Schedule 3—Amendments

Schedule 4—Repeals

Status:
Point in time view as at 01/04/2016.

Changes to legislation:
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