



AN BILLE UM FHORBAIRT TIONSAIL, 1993
INDUSTRIAL DEVELOPMENT BILL, 1993

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title, construction and collective citation.
2. Interpretation.
3. Expenses.
4. Repeals.

PART II

FORFÁS AND AGENCIES

5. Establishment of Forfás, Forbairt and IDA.
6. Functions of Forfás.
7. Functions of Forbairt.
8. Functions of IDA.
9. Functions formerly exercised by the Industrial Development Authority and Eolas.
10. Delegation of functions.
11. Grants to Forfás and the Agencies.
12. Industrial incentives.
13. Review of industrial performance and policy.

PART III

TRANSITIONAL PROVISIONS

14. Transfer of land.

Section

15. Transfer of other property.
16. Transfer of rights and liabilities.
17. Exemption from stamp duty.
18. Dissolution of Industrial Development Authority and Eolas.
19. Final accounts of dissolved bodies.
20. Pending legal proceedings.
21. Staff.

FIRST SCHEDULE

FORFÁS AND THE AGENCIES

SECOND SCHEDULE

MEMBERS AND STAFF

THIRD SCHEDULE

ENACTMENTS REPEALED

ACTS REFERRED TO

Companies Act, 1990	1990, No. 33
European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Act, 1984	1984, No. 6
Finance Act, 1895	58 & 59 Vict. c.16
Industrial Development Act, 1986	1986, No. 9
Industrial Development (Amendment) Act, 1991	1991, No. 9
Industrial Research and Standards Act, 1961	1961, No. 20
Industrial Research and Standards (Amendment) Act, 1979	1979, No. 33
Local Government Act, 1941	1941, No. 30
Science and Technology Act, 1987	1987, No. 30
Shannon Free Airport Development Company Limited (Amendment) Act, 1970	1970, No. 9



AN BILLE UM FHORBAIRT TIONSAIL, 1993
INDUSTRIAL DEVELOPMENT BILL, 1993

BILL

entitled

5 AN ACT TO MAKE FURTHER PROVISION FOR THE
DEVELOPMENT OF INDUSTRY AND TECHNOLOGY
AND TO STIMULATE AND ENCOURAGE INVESTMENT
IN INDUSTRIAL UNDERTAKINGS FROM SOURCES
10 WHETHER WITHIN OR OUTSIDE OF THE STATE AND
FOR THOSE PURPOSES TO ESTABLISH NEW BODIES
TO BE KNOWN AS FORFÁS, FORBAIRT AND THE
INDUSTRIAL DEVELOPMENT AGENCY (IRELAND)
AND TO PROVIDE FOR OTHER MATTERS CONNECTED
WITH THE MATTERS AFORESAID.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Industrial Development Act, 1993. Short title,
construction and
collective citation.

20 (2) The Industrial Development Acts, 1986 and 1991 and this Act
may be cited together as the Industrial Development Acts, 1986 to
1993, and shall be construed together as one Act.

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

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

25 “the Act of 1987” means the Science and Technology Act, 1987;

“Agency” means Forbairt or IDA;

“Board” means the Board of Forfás or either Agency;

“dissolved body” means the Industrial Development Authority or
Eolas;

30 “establishment day” has the meaning assigned to it by *section 5*;

“Forbairt” means the Agency established in that name by *section 5*;

"Forfás" means the Agency established in that name by *section 5*;

"IDA" means the Agency established by *section 5* in the name of the Industrial Development Agency (Ireland);

"the Minister" means the Minister for Enterprise and Employment.

(2) In this Act, a reference to a section or Schedule is to a section of, or Schedule to, this Act unless it is indicated that a reference to some other provision is intended. 5

(3) In this Act, a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that a reference to another provision is intended. 10

(4) In this Act, a reference to any other enactment is to that enactment as amended by any other enactment including this Act.

Expenses.

3.—The expenses incurred 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. 15

Repeals.

4.—Every enactment referred to in *column (2)* of the *Third Schedule* to this Act is hereby repealed with effect from the establishment day to the extent mentioned in *column (3)* of that Schedule.

PART II

20

FORFÁS AND AGENCIES

Establishment of Forfás, Forbairt and IDA.

5.—(1) There shall stand established, on such day as the Minister may by order appoint ("the establishment day"), a body to be known as Forfás and two agencies of Forfás, to be known respectively as Forbairt and the Industrial Development Agency (Ireland) ("IDA"), to carry out the functions assigned to them by this Act. 25

(2) The *First* and *Second Schedules* shall apply for the purposes of this section.

Functions of Forfás.

6.—(1) The functions of Forfás shall be—

- (a) to advise the Minister on matters relating to the development of industry in the State, 30
- (b) to advise on the development and co-ordination of policy for Forbairt, IDA, An Bord Tráchtála and such other bodies as the Minister may designate,
- (c) to encourage the development of industry and technology in the State, 35
- (d) to encourage the establishment and development in the State of industrial undertakings from outside the State, and
- (e) to advise and co-ordinate Forbairt and IDA in relation to their functions. 40

(2) Forfás and each Agency shall comply with such general directives relating to the policy to be followed by it in the exercise of its functions as may be given by the Minister.

7.—The functions of Forbairt shall be, as an agency of Forfás—

Functions of
Forbairt.

- 5 (a) to develop industry in the State,
- (b) to strengthen the technological base and the capacity of industry to innovate,
- (c) to provide services which support such development,
- 10 (d) to make investments in and provide supports to industrial undertakings which comply with the requirements of the enactments for the time being in force,
- (e) to administer such schemes, grants and other financial facilities requiring the disbursement of European Community Funds as may from time to time be authorised by the Minister with the concurrence of the Minister for Finance,
- 15 and
- (f) to carry out such other functions as may from time to time be assigned to it by Forfás with the consent of the Minister.

8.—The functions of IDA shall be, as an agency of Forfás—

Functions of IDA.

- 20 (a) to promote the establishment and development, in the State, of industrial undertakings from outside the State,
- (b) to make investments in and provide supports to industrial undertakings which comply with the requirements of the enactments for the time being in force,
- 25 (c) to administer such schemes, grants and other financial facilities requiring the disbursement of European Community Funds as may from time to time be authorised by the Minister with the concurrence of the Minister for Finance, and
- 30 (d) to carry out such other functions as may from time to time be assigned to it by Forfás with the consent of the Minister.

9.—(1) Subject to *subsection (2)*, the powers and functions of the Industrial Development Authority, as specified in the Act of 1986, and the powers and functions of Eolas, as specified in the Industrial Research and Standards Act, 1961 and in the Act of 1987, shall be vested in Forfás and may, to such an extent and in accordance with such directions as the Minister may from time to time determine, be assigned to and exercised by Forbairt or IDA as the case may be.

Functions formerly
exercised by the
Industrial
Development
Authority and
Eolas.

40 (2) The powers and functions of the Industrial Development Authority conferred on it by Part III of the Act of 1986 shall be assigned to, and exercised by, Forbairt or IDA to such an extent and in accordance with such directions as Forfás, with the concurrence of the Minister, may from time to time determine.

45 (3) For the purposes of this section, references in the Act of 1986 and in the Shannon Free Airport Development Company Limited

(Amendment) Act, 1970 to "the Authority" and in the Act of 1987 to "the Agency" shall be construed as references to Forfás and each Agency, or to any of them, as may be appropriate.

Delegation of functions.

10.—(1) Any function exercised by Forfás and either Agency may, without prejudice to their general responsibilities under this Act, be performed through or by any member of staff duly authorised in that behalf. 5

(2) Forfás and either Agency may, as it thinks proper, from time to time constitute committees or other bodies (including regional bodies) for the purposes of this section and dissolve any such body. 10

(3) Membership of a committee or other body may include persons who are not members of Forfás or its staff or of either Agency.

Grants to Forfás and the Agencies.

11.—(1) There may be paid by the Minister to Forfás and each Agency, out of moneys provided by the Oireachtas, grants of such amounts as the Minister, with the consent of the Minister for Finance, may sanction— 15

(a) to enable Forfás and each Agency 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 £750,000,000. 20

(3) The aggregate amount of grants made by Forfás and the Agencies and of payments made under sections 16 and 31 of the Act of 1986 or the corresponding provisions of any repealed enactment after the commencement of this section shall not exceed the aggregate limits specified in *subsection (2)*. 25

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— 30

(a) £2,500,000, or

(b) £2,500,000 in excess of the aggregate amount of grants for which the prior permission of the Government has previously been obtained. 35

(2) The Agencies may make grants on such terms and conditions as are specified in the Act of 1986 towards the employment of persons in a service industry.

Review of industrial performance and policy.

13.—The Minister shall, within three years from the passing of this Act, and in every third year thereafter, prepare a review of national industrial performance in respect of the previous three years and of national industrial policy and shall cause the review and the conclusions arising therefrom to be laid before the Houses of the Oireachtas. 40 45

PART III

TRANSITIONAL PROVISIONS

14.—On the establishment day, all land which, immediately before that day, was vested in the Industrial Development Authority or Eolas and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in Forfás for all the estate or interest for which immediately before the establishment day it was vested in either such dissolved body but subject to all trusts and equities affecting the land subsisting and capable of being performed.

Transfer of land.

15.—On the establishment day all property other than land, including choses-in-action, which immediately before that day was the property of either dissolved body shall stand vested in Forfás without any assignment.

Transfer of other property.

16.—(1) All rights and liabilities of a dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by that body before the establishment day shall on that day stand transferred to Forfás.

Transfer of rights and liabilities.

(2) Every right and liability transferred by subsection (1) may, on and after the transfer, be sued on, recovered or enforced by or against Forfás in its own name and it shall not be necessary for Forfás to give notice to the person whose right or liability is transferred by this section of such transfer.

17.—Section 12 of the Finance Act, 1895 shall not apply to the vesting of any property or rights transferred by this Act.

Exemption from stamp duty.

18.—On the establishment day, the Industrial Development Authority and Eolas shall stand dissolved.

Dissolution of Industrial Development Authority and Eolas.

19.—Final accounts of each dissolved body shall be drawn up in such form as may be approved of by the Minister, and such accounts shall be laid before each House of the Oireachtas.

Final accounts of dissolved bodies.

20.—Any legal proceedings pending on the establishment day in any court or tribunal to which a dissolved body is a party shall continue with the substitution of Forfás for such party and shall not abate by reason of such substitution.

Pending legal proceedings.

21.—Forfás shall accept into its employment on the establishment day, in accordance with the terms of this Act, every person who immediately before that day was a member of the staff of the Industrial Development Authority or Eolas ("the dissolved bodies") on terms and conditions not less favourable than those applicable to that person immediately before the transfer.

Staff.

FIRST SCHEDULE

FORFÁS AND THE AGENCIES

Incorporation.	<p>1. (1) Forfás and each Agency shall be a body corporate with the power to sue and be sued in its own name.</p> <p>(2) Forfás shall have the power to acquire, hold and dispose of land and other property.</p>	5
Membership.	<p>2. (1) The members of Forfás and of each Agency shall constitute the Board of that body.</p> <p>(2) The Board of Forfás and each Agency shall each consist of not more than 12 members.</p> <p>(3) The Board of Forfás shall include its Chief Executive Officer and the Chief Executive Officer of each Agency.</p> <p>(4) The Board of each Agency shall include its Chief Executive Officer.</p> <p>(5) Subject to <i>paragraph 1 (4) of the Second Schedule</i>, the members of the Boards shall be appointed by the Minister with the consent of the Minister for Finance.</p> <p>(6) One member of each Board shall be designated as Chairperson by the Minister and two other members may be designated as Deputy Chairperson.</p> <p>(7) The Chairperson and other members of Forfás and of each Agency shall hold office on such terms and conditions (including remuneration) as the Minister, with the consent of the Minister for Finance, shall determine.</p> <p>(8) Each Board may act by any three of its members.</p> <p>(9) Each Board may regulate its own procedure.</p> <p>(10) Board members shall not be members of a local authority within the meaning of the Local Government Act, 1941.</p>	10 15 20
Period of office of members.	<p>3. (1) On every anniversary of the date of commencement of this Act, one-fifth of the members of each Board or, if their number is not two, then the number nearest to one-fifth shall retire from office.</p> <p>(2) The members to retire each year shall be those who have been longest in office since their previous appointment but, as between persons who first became members on the same day, those to retire shall (unless they otherwise agree amongst themselves) be determined by lot.</p> <p>(3) A retiring member shall be eligible for reappointment.</p>	30 35
Conditions of office.	<p>4. (1) The Minister may, with the consent of the Minister for Finance, remove a Board member from office.</p> <p>(2) A member may resign office by notice in writing to the Minister and the resignation shall take effect on the date on which the Minister receives the notice.</p> <p>(3) Where a member has any financial interest, directly or indirectly, in any industrial, commercial or service undertaking, that</p>	40

person shall, before exercising any functions as a member, declare the nature of such interest to the Board and shall comply with such directions as may be given by the Board in regard to it.

- 5 (4) A member shall be disqualified from holding and shall cease to hold office if that member is adjudged bankrupt, or makes a composition or arrangement with creditors, or is convicted of any indictable offence in relation to a company, or is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or is the subject of an order under section 160 of the Companies
10 Act, 1990.

(5) Where a member is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or of the European Parliament, or
- 15 (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

that person shall thereupon cease to be a member of that Board.

- 20 (6) The conditions of office applicable to Board members and set out in *subparagraphs* (3) and (4) shall also apply to members of committees or other bodies constituted under this Act.

5. (1) Forfás and each Agency shall provide itself with a seal. The seals.

- 25 (2) The seal of Forfás or either Agency shall, when applied to a document, be attested to by the signature of two members or by the signature of a member and a member of staff of the relevant body authorised by it to act in that behalf or by the signature of two members of staff of the relevant body so authorised.

- 30 6. (1) All courts of justice shall take judicial note of the seals of Forfás and the Agencies and every document purporting to be an instrument made by Forfás or either Agency and to be sealed with its seal and to be attested in accordance with this paragraph shall, unless the contrary is shown, be received in evidence and deemed to be that instrument without further proof. Contracts and instruments.

- 35 (2) 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 Forfás or either Agency by any person generally or specially authorised by Forfás or either Agency for that purpose.

- 40 7. (1) Forfás and each 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 reports to be laid before each House of the Oireachtas not later than six months after the end of that financial year. Every such
45 annual report shall specifically comment on both job creation and job losses. Annual report and accounts.

(2) Forfás and each 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 Forfás and of each 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. 5

Information. 8. (1) Forfás and each Agency shall supply the Minister with such information regarding its activities as the Minister may from time to time require. 10

(2) Each Agency and any committee or other body established under this Act shall provide Forfás with such information as it may require for the purposes of its functions. 15

Section 5.

SECOND SCHEDULE

MEMBERS AND STAFF

Chief Executive Officers. 1. (1) Forfás and each Agency shall have a Chief Executive Officer.

(2) The Chief Executive Officer of Forfás shall— 20

(a) be appointed by Forfás with the approval of the Minister, and

(b) hold office on such terms and conditions (including remuneration) as the Minister, with the concurrence of the Minister for Finance, may approve. 25

(3) The Chief Executive Officer of each Agency shall be appointed by the Board of the Agency and shall hold office on such terms and conditions (including remuneration) as that Board, with the concurrence of the Minister and the Minister for Finance, may approve. 30

(4) The Chief Executive Officer of Forfás and of each Agency shall, for the duration of that person's appointment to that body, become an *ex-officio* member of the Board of that body.

Staff of Forfás. 2. (1) Forfás may, from time to time, appoint such and so many persons to be members of its staff as it thinks proper. 35

(2) A person accepted into the employment of Forfás under section 21 or appointed to Forfás under this section, may be seconded from time to time by Forfás to serve with either Agency or any other body established under this Act.

(3) Every member of staff so seconded shall continue to be a member of the staff of Forfás but shall, while so seconded, be subject to the directions of the body to which that member is seconded in its day to day operations, subject to such arrangements as may be made between Forfás and that body. 40

(4) The remuneration and allowances of the members of the staff of Forfás shall be determined from time to time by Forfás, with the 45

consent of the Minister and with the concurrence of the Minister for Finance.

(5) Where a member of staff of Forfás is—

- (a) nominated as a member of Seanad Éireann, or
- 5 (b) elected as a member of either House of the Oireachtas or of the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977 as having been elected to such Par-
- 10 liament to fill a vacancy,

that person shall thereupon stand seconded from the employment of Forfás and shall not be paid by, or be entitled to receive from, Forfás, any remuneration or allowances in respect of the period commencing on such nomination or election or when that person is so regarded as

15 having been elected, as the case may be, and ending when that person ceases to be a member of either House or such Assembly.

3. (1) Forfás shall prepare and submit to the Minister a scheme or schemes for the granting of pensions, gratuities and other allowances on resignation, retirement or death, to, or in respect of, such members

20 of staff of Forfás (including the Chief Executive Officers appointed under *paragraph 1* of this Schedule) as it thinks fit.

Superannuation.

(2) Without prejudice to the generality of *section 9 (3)*, it is hereby expressly confirmed that a scheme or schemes of superannuation carried out by the Industrial Development Authority or by Eolas

25 immediately before the establishment day shall, notwithstanding the dissolution of those bodies by this Act, continue in force as if made by Forfás which shall have the like powers and functions under this Act in relation to such schemes as the Industrial Development Authority or Eolas had immediately before such establishment.

30 (3) Forfás may, with the consent of the Minister for Finance, make a scheme amending or revoking a scheme to which this paragraph relates.

4. (1) Forfás and either Agency shall not, without the consent of the Minister, disclose any document in its custody or under its control,

35 production of which is sought in relation to any legal proceedings.

Disclosure of documents.

(2) Where the Minister refuses to consent to the disclosure, Forfás or either Agency shall be entitled to, and shall claim in the proceedings, the like privilege in respect of the document as the Minister would be entitled to claim if it were in the Minister's own custody.

40 5. (1) Subject to *subparagraph (3)*, a person shall not disclose any information obtained by that person—

Disclosure of information.

- (a) while performing duties as a member of any Board, committee or other body established under this Act or as a member of staff of, or adviser or consultant to, Forfás or
- 45 either Agency, or
- (b) as a member of or as a member of staff of any body consulted in pursuance of the provisions of this Act, while performing duties relating to any such consultation.

(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 £1,000.

(3) Nothing in *subparagraph (1)* shall prevent—

- (a) disclosure of information in a report made to Forfás or either Agency (or on behalf of Forfás or either Agency) to the Minister, 5
- (b) disclosure of information by Forfás or either Agency or by a member of Forfás or either Agency or of any committee or other body established under this Act for the purpose of a scheme of research and development or a scheme of acquisition of product and process technology. 10

Section 4.

THIRD SCHEDULE

ENACTMENTS REPEALED

Year and Number (1)	Enactment (2)	Extent of Repeal (3)
No. 20 of 1961	Industrial Research and Standards Act, 1961	Part III, sections 32 and 37
No. 33 of 1979	Industrial Research and Standards (Amendment) Act, 1979	The whole Act
No. 9 of 1986	Industrial Development Act, 1986	Sections 6, 10 (1) and (3), 12 (1), (4) and (5), 14 (1) and (2), 15 (1), 25 (1), 38, 39, 40, First Schedule
No. 30 of 1987	Science and Technology Act, 1987	Sections 13, 15 to 17, and 19 to 29

BILLE

dá ngairtear

Acht do dhéanamh socrú breise chun tionscal agus teicneolaíocht a fhorbairt, agus do ghríosú agus do spreagadh infheistíochta i ngnóthais thionsclaíochta ó fhoinsí cibé acu laistigh nó lasmuigh den Stát agus chun na gcríoch sin do bhunú comhlachtaí nua ar a dtabharfar Forfás, Forbairt agus an Ghníomhaireacht Forbartha Tionscail (Éire) agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe réamhráite.

*Ritheadh ag dhá Theach an Oireachtais,
30 Meitheamh, 1993*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

Clóbhualte ag CAHILL PRINTERS LIMITED.

£1.60

BILL

entitled

An Act to make further provision for the development of industry and technology and to stimulate and encourage investment in industrial undertakings from sources whether within or outside of the State and for those purposes to establish new bodies to be known as Forfás, Forbairt and the Industrial Development Agency (Ireland) and to provide for other matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
30th June, 1993*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

£1.60