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**AN BILLE UM GHNÍOMHAIREACHT FORBARTHA DON  
MHOL DIGITEACH 2002**  
**DIGITAL HUB DEVELOPMENT AGENCY BILL 2002**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*Purpose of Bill*

The Bill provides for the establishment of Digital Media Development Limited on a statutory basis, with a new title, the “Digital Hub Development Agency”, under the auspices of the Minister for Public Enterprise. Digital Media Development Limited was originally established by a Government decision of April 2000 under the aegis of the Department of the Taoiseach before responsibility was transferred to the Department of Public Enterprise in May 2001. The Bill is a standard Bill designed to set up a new State body. In this memorandum the term “Minister” refers to the Minister for Public Enterprise. It is intended that the Agency will be made subject to the Freedom of Information Act 1997 on the passing of this Act.

**PART 1**

**PRELIMINARY AND GENERAL**

*Section 1*

This is a standard provision which provides for the short title of the Act and the collective citation of the Act with other relevant Acts.

*Section 2*

This provides definition of terms used in the Act.

*Section 3*

This provides that the Minister may, by order, and with the consent of the Minister for Finance, extend the area of the digital hub. It also provides for such an order to be amended or revoked.

*Section 4*

This provides that the Minister may by order appoint a day to be the establishment day for this Act.

*Section 5*

This provides that every order made by the Minister, other than that under *section 4*, will be laid before each House of the Oireachtas.

*Section 6*

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

## PART 2

### DIGITAL HUB DEVELOPMENT AGENCY

#### *Section 7*

This provides that there shall stand established, on the establishment day, a body to be known as the Digital Hub Development Agency, to perform the functions conferred on it by or under this Act.

#### *Section 8*

This sets out the functions of the Agency. The main function of the Agency is to promote and facilitate the development of the digital hub as a location for digital enterprises and related activities. This will also entail the formulation of strategies to encourage those engaged in digital enterprises to locate in the hub and the procurement of the technical and communications infrastructure. In addition, it will be a function of the Agency to prepare a development plan, estimates of the cost of its implementation and possible funding options. The Agency will also oversee and manage the implementation of the plan and in doing so will consult with local community interests. In performing its functions the Agency will also consult with Enterprise Ireland and IDA Ireland.

#### *Section 9*

This deals specifically with a development plan for the digital hub to be prepared by the Agency. In the development plan the Agency is required to outline its objectives with regard to property acquisition and management, educational provision, the setting of a budget for the plan and a strategy for its delivery within that budget. It is also a requirement that the plan take account of Dublin City Council's *Integrated Area Plan* (IAP) for the Liberties/Coombe area and that it be made available for public inspection.

#### *Section 10*

This provides that the Agency will submit for the Minister's approval, who shall consult with the Minister for Finance, strategic, business and financial plans on a regular basis.

#### *Section 11*

This allows for the assignment of additional functions to the Agency as the Minister, with the consent of the Minister for Finance, considers appropriate.

#### *Section 12*

This allows for directions by the Minister to the Agency in relation to policy matters. Directions regarding the financial objectives of the Agency will be given with the consent of the Minister for Finance.

#### *Section 13*

This provides for the Agency to establish, with the approval of the Minister and the consent of the Minister for Finance, one or more subsidiaries for the purpose of the performance of its functions.

#### *Section 14*

This is a standard provision which allows the Agency to make charges for the provision by it of services.

#### *Section 15*

This sets out the composition of the Agency and the terms of Board membership. In this Bill the term "Agency" refers to the Board of the Agency. This section provides for 14 members of the Agency who shall be appointed by the Minister with the consent of the Minister for Finance. The Agency shall include the City Manager

of Dublin City Council or his nominee to take account of the fact that the digital hub is being developed in the context of Dublin City Council's *Integrated Area Plan* for the Liberties/Coombe.

#### *Section 16*

This section deals with the appointment of a Chairperson to the Agency and the terms of the appointment.

#### *Section 17*

This section is a standard provision for the meetings and procedures of State bodies.

#### *Section 18*

This provides for the establishment of committees by the Agency to assist and advise it on functional matters. It also provides for the reimbursement of expenses to committee members subject to the consent of the Minister and the Minister for Finance.

#### *Section 19*

This provides for the appointment of the Chief Executive, the terms of their appointment and the execution of his or her functions. The Chief Executive shall hold office on such terms as may be determined by the Agency with the consent of the Minister given with the approval of the Minister for Finance.

#### *Section 20*

This provides for the Agency to appoint members of staff with the consent of the Minister and the Minister for Finance.

#### *Section 21*

This is a standard provision which allows the Agency to make a scheme or schemes for the granting of superannuation benefits to members of staff, including the Chief Executive, of the Agency subject to the approval of the Minister and the consent of the Minister for Finance. Under this Act any scheme, or amendment to a scheme, must be laid before each House of the Oireachtas.

#### *Section 22*

This is a standard provision relating to membership of the European Parliament or either House of the Oireachtas, and how this disqualifies a member of the Agency from his/her position. It also provides for the secondment of staff in the event of their election to these institutions.

#### *Section 23*

This is a standard provision requiring the Agency to draw up and publish a code of conduct in respect of controls on staff interests and ethical behaviour to apply to each member of its staff.

#### *Section 24*

This is a standard provision requiring members of the Agency, the Chief Executive and a director of a subsidiary of the Agency to make a declaration in writing of his/her interests to the Minister on their appointment. The form of this declaration will be specified by the Minister following consultation with the Minister for Finance.

#### *Sections 25 and 26*

These provide for the disclosure of certain interests by members of the Agency, members of staff, members of committees and a consultant or adviser engaged by the Agency in proposed contracts. These sections set out the procedures for declaring such interests and the penalties for failure to disclose such interests.

#### *Section 27*

This is a standard provision dealing with the disclosure of confidential information and the penalties which will apply if contravened.

#### *Section 28*

This provides for the Agency to accept gifts unless the terms and conditions attached to them would be inconsistent with the functions of the Agency. It also provides for the particulars of any gifts to be included in the annual report of the Agency.

#### *Section 29*

This provides for the Minister, with the consent of the Minister for Finance, to advance moneys, provided by the Houses of the Oireachtas for the performance of the functions of the Agency. A total of €80.47m has been allocated to the Digital Hub project to date. It is broken down as follows:

Property purchase in 2001	€51.94m
Property purchase in 2002	€21.7m
Provision of Broadband infrastructure in the Digital Hub	€2.29m
Operating expenses for Digital Media Development Ltd. in 2001	€2.54m
Operating expenses for Digital Media Development Ltd. in 2002	€2m

#### *Section 30*

This provides that the Chief Executive, following the agreement of the Agency, shall submit estimates of income and expenditure to the Minister and sets out the responsibilities of the Chief Executive with regard to the keeping of accounts. It also provides for the accounts of the Agency to be audited by the Comptroller and Auditor General. In addition, a copy of the accounts and the report of the Comptroller and Auditor General shall be laid before each House of the Oireachtas.

#### *Section 31*

This provides for the Chief Executive to give evidence to the Committee of Public Accounts when required to do so.

#### *Section 32*

This is a standard provision dealing with the accountability of the Chief Executive to Oireachtas committees other than the Committee of Public Accounts. It also provides that the Chief Executive shall not be obliged to account for a matter which is the subject of legal proceedings before a court or tribunal. Any dispute in this area shall be referred to the High Court.

#### *Section 33*

This provision requires the Agency to produce an annual report in a format acceptable to the Minister and any further reports that may be required. Each annual report will be laid before the Houses of the Oireachtas.

#### *Section 34*

This provides for the engagement of consultants/advisers by the Agency subject to the consent of the Minister.

#### *Section 35*

This provides for the acquisition by the Board of a seal by which documents may be authenticated.

### *Section 36*

This provision allows the Agency to indemnify persons carrying out their duties in furtherance of the functions of the Agency.

### *Section 37*

This provides for the immunity of the Agency in respect of legal proceedings arising out of alleged failure to perform any of its functions.

## PART 3

### DISSOLUTION OF DIGITAL MEDIA DEVELOPMENT LIMITED AND TRANSITIONAL PROVISIONS

### *Section 38*

This provides for the dissolution of Digital Media Development Limited. This is a necessary step in transforming the company into an Agency.

### *Section 39*

This provision allows references to Digital Media Development Limited in legislation to mean the Agency where such references relate to transfers to the Agency under the Act.

### *Section 40*

This provision allows for the transfer of the assets and liabilities of Digital Media Development Limited to the Agency. It also provides for the transfer of property purchased for the development of the digital hub, currently vested in the Commissioners of Public Works, to the Agency.

### *Section 41*

This provides for the maintenance of contracts entered into by Digital Media Development Limited.

### *Section 42*

This provision allows any pending legal proceedings against Digital Media Development Limited to be taken against the Agency instead.

### *Section 43*

This provides for the drawing up of final accounts of Digital Media Development Limited. This is a necessary step in the dissolution of the company and its transformation into an Agency. Accounts prepared under this section will be submitted to the Comptroller and Auditor General for audit and laid before each House of the Oireachtas along with the Comptroller and Auditor General's report on them.

### *Schedule*

This describes the physical and geographical boundaries of the digital hub area.

*An Roinn Fiontar Poiblí,  
Eanáir, 2002.*