



**AN BILLE UM GHNÍOMHAIREACHT AIRGEADAIS
D'FHORBAIRT NÁISIÚNTA, 2002
NATIONAL DEVELOPMENT FINANCE AGENCY BILL, 2002**

*Mar a tionscnaíodh
As initiated*

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[No. 34 of 2002]

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National Treasury Management Agency Act, 1990	1990, No. 18
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BILL

5

entitled

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A
BODY TO BE KNOWN AS THE NATIONAL DEVELOP-
MENT FINANCE AGENCY AND TO DEFINE ITS FUNC-
TIONS AND TO PROVIDE FOR CONNECTED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, except where the context otherwise requires— Interpretation.

“Agency” means the National Development Finance Agency estab-
lished by *section 2*;

15 “Chief Executive Officer” means the chief executive officer of the
Agency;

“Board” means the Board of the Agency;

“company” means a company within the meaning of section 2 of the
Companies Act, 1963;

20 “equity” means any financial interest resulting from the purchase of
shares for a consideration;

“functions” includes powers and duties, and a reference to the per-
formance of functions includes, with respect to powers and duties, a
reference to the exercise of the powers and the carrying out of the
duties;

25 “local authority” means a county council, city council or town coun-
cil for the purposes of the Local Government Act, 2001;

“Minister” means the Minister for Finance;

30 “public private partnership arrangement” means a public private
partnership arrangement within the meaning of the State Authorities
(Public Private Partnership Arrangements) Act, 2002;

“refinancing” means changing the terms and conditions, obligations
and entitlements attached to arrangements for financing public
investment projects, including cancellation and replacement of such
arrangements;

“State authority” means a body specified in the Schedule.

(2) (a) In this Act—

(i) a reference to a section or Schedule is a reference to a section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended, and 5

(ii) a reference to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended. 10

(b) In this Act a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment.

Establishment of Agency.

2.—(1) There shall stand established, on the establishment day, a body to be known as the National Development Finance Agency, and in this Act referred to as the “Agency”, to perform the functions assigned to it by this Act. 15

(2) The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. 20

(3) The Agency shall be a body corporate with perpetual succession and have the power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.

Functions of Agency.

3.—(1) The functions of the Agency are— 25

(a) to advise any State authority of what, in the opinion of the Agency, are the optimal means of financing the cost of public investment projects (including those involving public private partnership arrangements) in order to achieve value for money, 30

(b) to advance repayable loans (including equity) and to enter into other financial arrangements in respect of projects approved by any State authority,

(c) to provide advice to any State authority on all aspects of financing, refinancing and insurance of public investment projects to be duly undertaken by means of public private partnership arrangements, and 35

(d) to form, or cause to be formed, companies, subject to *section 5*, for the purpose of securing finance for public investment projects. 40

(2) The Agency shall have all such other powers as are necessary or expedient for the performance of its functions, including the engagement from time to time of consultants and advisers and other service providers.

(3) (a) In carrying out its functions the Agency shall comply with all guidelines and instructions that the Minister may, from time to time, issue. 45

(b) Before issuing guidelines under this Act, the Minister shall consult with the other Ministers of the Government.

4.—(1) In providing advice under this Act the Agency shall have regard to— Provision of advice to State authorities.

5 (a) such policy directions as the Minister may issue for the purposes of this paragraph to State authorities from time to time in relation to the financing of public investment projects, and

10 (b) such policy guidance as the Minister may issue for the purposes of this paragraph to State authorities from time to time in relation to the process, procedures and regulation generally of public private partnership arrangements.

15 (2) The provision of advice may include, where appropriate, advice as regards the engaging of consultancy services across the range of technical and other relevant expertise necessary to undertake such projects.

(3) Without prejudice to the generality of the foregoing, policy directions and policy guidance issued under *subsection (1)* may each provide direction and guidance, respectively, to ensure that advice given under this Act shall be independent of any potential benefits that may accrue to the Agency or the National Treasury Management Agency.

25 5.—(1) (a) Subject to *paragraph (b)* the Agency may form, or cause to be formed, a company or companies for the purpose of financing a public investment project where, in the opinion of the Agency, it is necessary or expedient to do so in order to discharge its functions under this Act. Establishment of special purpose companies.

30 (b) The Agency shall not form, or cause to be formed, such a company or companies unless it has obtained the prior consent of the Minister in writing in respect of each company.

35 (2) (a) In respect of a company formed for the purposes of this section no guarantee, loan or subvention shall be given to such company by—

(i) the Minister,

(ii) the Agency,

(iii) the National Treasury Management Agency,

(iv) any other State authority or,

40 (v) other body established—

(I) by or under any enactment (other than the Companies Acts, 1963 to 2001), or

45 (II) under the Companies Acts, 1963 to 2001, in pursuance of powers conferred by or under another enactment,

and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government, and a subsidiary of any such body. 5

(b) No liability shall attach to the State or any authority or body to which *subparagraph (i), (ii), (iii), (iv) or (v) of paragraph (a)* relates—

(i) in respect of any act done by a company formed for the purposes of this section, or 10

(ii) upon the winding up of such a company.

Borrowings and other arrangements.

6.—(1) Subject to *subsection (2)* and to the consent of the Minister in writing, the Agency may from time to time borrow moneys in any currency.

(2) The aggregate of the sums borrowed, guaranteed and outstanding by the Agency shall not exceed €5,000,000,000, including the equivalent of moneys borrowed in a currency other than the currency of the State. 15

(3) The Agency shall have the power to enter into contracts (including contracts in a currency other than the currency of the State) whose purpose or one of whose purposes is— 20

(a) to eliminate or reduce the risk of loss arising from changes in interest rates, currency exchange rates or from other factors of a similar nature affecting the Agency's business, or 25

(b) to fix or reduce the cost of borrowing or the cost of other transactions carried out in the course of that business.

(4) The Agency may open and maintain bank accounts, including accounts in currencies other than the currency of the State.

Guarantee by Minister of borrowings by Agency.

7.—(1) The Minister may guarantee the due repayment by the Agency of the principal of any moneys (including moneys in a currency other than the currency of the State) borrowed by the Agency, or the payment of interest on such moneys or both the repayment of the principal and the payment of the interest, and any such guarantee may include a guarantee of the payment by the Agency of commission and incidental expenses arising in connection with such borrowings. The aggregate of the sums borrowed, guaranteed and outstanding (including the equivalent in the currency of the State of moneys borrowed in a currency other than the currency of the State) shall not exceed €5,000,000,000. 30 35 40

(2) The Minister shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force at, the commencement of that year— 45

(a) particulars of the guarantee, including the remaining life of the guarantee,

(b) in case any payment has been made by the Minister under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to the Minister on foot of the payment, and

5 (c) the amount of moneys covered by the guarantee which was outstanding at the end of that year.

(3) Moneys paid by the Minister under a guarantee under this section shall be repaid to the Minister, with interest on it at such rate or rates as he or she appoints, by the Agency within 2 years from
10 the date of the advance of the moneys out of the Central Fund.

(4) Where the whole or any part of moneys required by *subsection* (3) to be repaid to the Minister has not been paid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

15 (5) Notwithstanding the provision under *subsection* (4) to repay the amount to the Central Fund, the Agency shall remain liable to the Minister in respect of that amount, and that amount, with interest on it at such rate or rates as the Minister appoints, shall be repaid to him or her by the Agency at such times and in such instalments as
20 the Minister appoints and, in default of such repayment and without prejudice to any other method of recovery, shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(6) Moneys paid by the Agency under *subsection* (3) or (5) shall be paid into or disposed of for the benefit of the Exchequer in such
25 manner as the Minister thinks fit.

(7) In relation to guarantees given by the Minister under this section in respect of moneys in a currency other than the currency of the State—

30 (a) each of the references to principal, each of the references to interest and the reference to commission and incidental expenses in *subsection* (1) shall be taken as referring to the equivalent in the currency of the State of the actual principal, the actual interest and the actual commission and incidental expenses, respectively, such equivalent
35 being calculated according to the cost in the currency of the State of the actual principal, the actual interest or the actual commission and incidental expenses, as may be appropriate, at the time the calculation is made,

40 (b) the reference to moneys in *subsection* (2) shall be taken as referring to the equivalent in the currency of the State of the actual moneys, such equivalent being calculated according to the rate of exchange for that currency and the currency of the State at the time the calculation is made, and

45 (c) each of the references to moneys in *subsections* (3) to (5) shall be taken as referring to the cost in the currency of the State of the actual moneys.

(8) Any payment by the Minister under this section shall be a charge on the Central Fund or the growing produce thereof.

50 **8.**—Subject to any guidelines that the Minister may from time to time issue for the purposes of this section and *section* 3(3) in respect of public investment projects, including—

Obligation of State authority.

- (a) the type of project,
- (b) the size of the project,
- (c) the stage of development of the project, and
- (d) any other relevant factors that will determine projects on which the Agency's advice will be sought, 5

a State authority shall seek the advice of the Agency as soon as is practicable before undertaking a public investment project.

Performance of
functions of
Agency.

9.—(1) (a) Subject to *section 10*, the Agency shall perform its functions through the National Treasury Management Agency. 10

(b) The National Treasury Management Agency Act, 1990, is amended by inserting the following section after section 4:

“4A. The Agency shall have all powers necessary or expedient for the purposes of the *National Development Finance Agency Act, 2002*.”. 15

(2) Subject to *section 18(5)*, the performance of a function by the National Treasury Management Agency under this Act shall not be considered a function of the Agency under the National Treasury Management Agency Act, 1990. 20

Board of Agency.

10.—(1) The Board of the Agency shall, subject to this Act—

- (a) ensure that the functions of the Agency are being performed effectively,
- (b) set the strategic objectives and targets to be met by the Agency, and 25
- (c) ensure that the objectives and targets are met.

(2) The Board shall consist of a Chairperson and 4 ordinary members.

(3) The Chief Executive Officer of the National Treasury Management Agency shall be the Chairperson of the Board of the Agency. 30

(4) The ordinary members of the Board shall be appointed by the Minister.

(5) (a) Subject to *subsection (9)*, the term of office of an ordinary member is 5 years. 35

(b) The members of the Board shall each be paid such remuneration and such allowances for expenses as the Minister determines at the time of the appointment of the ordinary member or Chairperson.

(c) Each ordinary member of the Board shall hold office on such terms (other than the term of office, payment of remuneration and allowances for expenses) as the Minister determines at the time of the member's appointment. 40

(6) A member of the Board shall be disqualified from becoming or continuing as a member of the Board if he or she—

(a) is adjudged a bankrupt,

(b) makes a composition or arrangement with creditors,

5 (c) is convicted of an indictable offence in relation to a corporate body, including an offence under the Companies Acts, 1963 to 2001,

(d) is convicted of an offence involving fraud or dishonesty, or

10 (e) is disqualified or restricted from being a director of any company.

(7) An ordinary member of the Board may at any time resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date specified in the letter or upon receipt of the letter by the Minister, whichever is the later.

15 (8) An ordinary member of the Board may at any time for stated reasons be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of
20 its functions.

(9) If an ordinary member of the Board dies, resigns, retires, becomes disqualified or is removed from office, the Minister may
25 appoint a person to be a member to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as, and for the remainder of the term of office of, the member of the Board who occasioned the casual vacancy.

(10) An ordinary member of the Board whose period of membership expires by the passage of time shall be eligible for re-appointment as a member of the Board, but shall not serve more than 2
30 terms.

(11) The Minister shall, in so far as is practicable and having regard to relevant experience, ensure an equitable balance between men and women in the composition of the Board.

35 **11.—**(1) The Board shall appoint one of its members, other than its Chairperson, to be the Chief Executive Officer of the Agency. Chief Executive Officer.

(2) The Chief Executive Officer shall report and be accountable to the Board.

(3) The Chief Executive Officer shall carry out such duties as the
40 Board assigns to him or her.

12.—(1) The Board shall hold such and as many meetings as may
be necessary for the performance of its functions. Meetings of Board.

(2) The first meeting of the Board shall be on the establishment day of the Agency or on the earliest practicable day after the establishment day.
45

(3) The quorum for a meeting of the Board shall be 3.

(4) At a meeting of the Board—

(a) the Chairperson of the Board shall, if present, be the chairperson of the meeting, and

(b) if and so long as the Chairperson of the Board is not present 5
or if the office of the Chairperson is vacant, the members
of the Board who are present shall choose one of their
members to be chairperson of the meeting.

(5) At a meeting of the Board, each member present, including
the Chairperson, shall have a vote and any question on which a vote 10
is required in order to establish the Board's view on the matter shall
be determined by a majority of votes of the Board members present
and voting on the question and, in the case of an equal division of
votes, the chairperson of the meeting shall have a second and casting
vote. 15

(6) The Board may act notwithstanding one or more vacancies
among its members or at the meeting, provided there is a quorum at
the meeting.

(7) Subject to this Act, the Board shall regulate, by standing
orders or otherwise, the procedure and business of meetings of the 20
Board.

Seal of Agency.

13.—(1) The Agency shall, as soon as practicable after the estab-
lishment day, provide itself with a seal.

(2) The seal of the Agency shall be authenticated by the signature
of— 25

(a) the Chairperson and one other member of the Board, or

(b) 2 ordinary members of the Board,

authorised by the Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Agency and
every document purporting to be an instrument made by the Agency 30
and to be sealed with the seal of the Agency (purporting to be auth-
enticated in accordance with this section) shall be received in evi-
dence and be deemed to be such instrument without proof unless the
contrary is shown.

(4) Any contract or instrument which, if entered into or executed 35
by a person not being a body corporate, would not require to be
under seal may be entered into and executed by—

(a) the Chairperson of the Board and one other member of the
Board, or

(b) 2 ordinary members of the Board, 40

authorised by the Board for that purpose.

14.—(1) Where a member of the Board—

Membership of
either House of the
Oireachtas,
European
Parliament or local
authority, etc.

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or to the European Parliament,

5 (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to the European Parliament to fill a vacancy, or

10 (d) becomes a member of a local authority, a vocational education committee, the board of a health board or the Eastern Regional Health Authority,

he or she shall thereupon cease to be a member of the Board.

15 (2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament or who is a member of any of the bodies specified in *paragraph (d) of subsection (1)* shall not, while he or she is so entitled or is such a representative or member, be eligible for appointment to the Board.

20 **15.—(1)** Where a member of the Board or a member of the staff of the Agency, or a consultant, adviser or other person engaged by the Agency, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Board or by the Agency itself, he or she shall—

Disclosure of
interests.

25 (a) disclose to the Board or, as the case may be, to the Chief Executive Officer, the nature of his or her interest in advance of any consideration of the matter,

(b) neither influence nor seek to influence a decision to be made in relation to the matter, and

(c) take no part in any consideration of the matter, and—

30 (i) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed, and

(ii) not vote on a decision relating to the matter.

35 (2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

40 (a) he or she or any connected person or any nominee of his or her or any connected person, is a member or director of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,

(b) he or she or any connected person is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,

(c) he or she or any connected person is a party to any arrangement or agreement (whether or not enforceable) to which such a matter relates, or

(d) any connected person has a beneficial interest in, or material to, such a matter. 5

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter—

(a) by reason only of an interest of his or hers or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter, or 10

(b) if he or she can show that at the material time he or she was unaware, and in the circumstances could not possibly have been aware, that a connected person had an interest referred to in *subsection (2)*. 15

(4) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting of the Board, or otherwise duly recorded by the Chief Executive Officer. 20

(5) Where at a meeting of the Board, or otherwise within the Agency, a question arises as to whether or not a course of conduct, if pursued by a person, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the chairperson of the meeting or by the Chief Executive Officer, as appropriate, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting of the Board or otherwise duly recorded by the Chief Executive Officer. 25 30

(6) Where the Minister is satisfied, on being informed by the Board, that a member of the Board (including the Chairperson) has contravened *subsection (1)*, the Minister shall decide the appropriate action (including removal from office) to be taken in relation to that member of the Board. The Minister may, if he or she thinks fit, remove that member of the Board (including the Chairperson) from office, including any office he or she holds (if any) in the National Treasury Management Agency. 35

(7) Where the Chairperson is satisfied that a member of the staff of the Agency or a consultant, adviser or other person engaged by the Agency, has contravened *subsection (1)*, the Chairperson shall decide the appropriate action (including dismissal) to be taken. 40

(8) The Agency may issue and publish guidelines as to what may further constitute an interest for the purpose of this section.

(9) In this section “connected person” means, in relation to a person to whom this section applies— 45

(a) the person’s spouse, parent, brother, sister or child, or

(b) a person with whom the person is cohabiting.

16.—(1) Save as otherwise provided by law, a person shall not disclose confidential information obtained by him or her while performing (or as a result of having performed) duties under this Act as—

Prohibition on unauthorised disclosure of confidential information.

- 5 (a) a member of the Board,
- (b) Chief Executive Officer,
- (c) a member of the staff of the Agency or the National Treasury Management Agency, or
- 10 (d) an adviser or consultant to the Agency, the National Treasury Management Agency or an employee of such person whilst performing duties relating to such advice or consultation, or obtained while in performance of a service contract,

unless he or she is duly authorised by the Agency to do so.

- 15 (2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable—

- (a) on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months or to both, or
- 20 (b) on conviction on indictment to a fine not exceeding €10,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) Nothing in *subsection (1)* shall prevent disclosure of information to the Board, the Chief Executive Officer or the Minister.

- 25 (4) In this section “confidential information” includes—

- (a) information that is expressed by the Board or the Minister to be confidential either as regards particular information or as regards information of a particular class or description,
- 30 (b) commercial information in relation to contractors, consultants, providers of finance or any other person, and
- (c) proposals of a commercial nature or tenders submitted to the Agency by contractors, consultants or any other person.

- 35 **17.**—(1) A person who communicates with a member of the Board, the Chief Executive Officer, a member of the staff of the Agency or the National Treasury Management Agency, or a consultant, adviser or other person engaged by the Agency or the National Treasury Management Agency, for the purpose of influencing
- 40 improperly his or her consideration of any matter which falls to be considered or decided by the Agency is guilty of an offence.

Prohibition on certain communications.

- (2) If a person referred to in *subsection (1)* to whom a communication is made is of the opinion that a communication may be in contravention of *subsection (1)*, it shall be his or her duty not to
- 45 entertain the communication further and he or she shall inform forthwith the Chairperson of the Board in writing of the substance

of such communication and the Chairperson shall acknowledge in writing the receipt of such information.

(3) A person guilty of an offence under *subsection (1)* shall be liable on summary conviction to a fine not exceeding €2,000 or to imprisonment for a term not exceeding 3 months or to both. 5

Accounts and
audits.

18.—(1) The Agency shall keep, in such form as may be determined by the Minister, all proper and usual accounts of moneys received by it or expended by it and of all financial and other transactions undertaken in the performance of its functions. The accounts shall include a separate account of the administration fees and expenses incurred by the Agency in the performance of its functions. 10

(2) Accounts prepared in pursuance of this section shall include details of all borrowing and fundraising by the Agency and their transfer to individual projects. In particular—

(a) a schedule of all loans and bonds raised by the Agency, and 15

(b) a schedule of all repayments of loans by State authorities to the Agency on foot of repayable advances,

shall be presented in the annual accounts of the Agency and in the Finance Accounts.

(3) Accounts kept in pursuance of this section, signed by the Chief Executive Officer and the Chairperson, shall be formally adopted by the Board and shall be submitted as soon as may be, but not later than 4 months after the end of the financial year to which they relate, by the Agency to the Comptroller and Auditor General for audit. A copy of the accounts as so audited shall be presented to the Minister as soon as may be and the Minister shall cause a copy of the accounts as so audited to be laid before each House of the Oireachtas. 20

(4) The audited accounts prepared under this section shall note a record of expenses incurred by the Agency.

(5) (a) The audited accounts prepared under section 12 of the National Treasury Management Agency Act, 1990, shall note a record of expenses incurred by the National Treasury Management Agency in the exercise of its functions under this Act. 30

(b) The National Treasury Management Agency Act, 1990, is amended by inserting the following after section 12(3): 35

“(4) The audited accounts prepared in pursuance of this section shall note a record of expenses incurred by the Agency in the performance of any functions under the *National Development Finance Agency Act, 2002*.”. 40

(6) The Chief Executive Officer and the Chairperson shall, whenever required by the Committee of Public Accounts, give evidence to that Committee on—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record or account subject to audit by the Comptroller and Auditor General which the Agency is required by or under statute to prepare, 45

- (b) the economy and efficiency of the Agency in the use of the resources made available to it under this Act,
- (c) the systems, procedures and practices employed by the Agency for the purposes of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Agency referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act, 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.
- (7) The Chief Executive Officer and the Chairperson, if required under *subsection (6)* to give evidence, shall not—
- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or the Attorney General or on the merits of the objectives of such a policy, or
- (b) produce or send to a committee a specified document in which the Chief Executive Officer or the Chairperson questions or expresses an opinion on the merits of any such policy or such objectives.
- 19.—**(1) As soon as may be, but not later than 6 months after the end of each financial year, the Agency shall make a report to the Minister of its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.
- (2) Each report under *subsection (1)* shall include information in such form and regarding such matters as the Minister may direct.
- 20.—**(1) Where the Minister, following consultation with any appropriate Minister, is of the opinion that—
- (a) a public authority not standing specified as a State authority in the Schedule ought, having regard to the purposes of this Act, to stand so specified, or
- (b) having regard to the amalgamation, dissolution or change of name of a State authority, the State authority ought to cease to be specified in the Schedule or to be so specified under a different name or description,
- he or she may, by order, amend the Schedule by adding the name of a person or body to it or by deleting the name of a person or body specified in it or by so adding and deleting, as the case may be.
- (2) Where an order is proposed to be made under this section, a draft of it shall be laid before each House of the Oireachtas.
- (3) The order shall not be made if a resolution disapproving of the draft is passed by either such House within the next subsequent 21 days on which it has sat after the draft is laid before it.
- (4) In this section “public authority” means—

Reports and information to the Minister.

Amendment of Schedule.

- (a) a person or body which at any time stood specified in the Schedule,
- (b) a board, authority or other body (other than a company) established by or under statute,
- (c) a company in which all the shares are held— 5
 - (i) by or on behalf of a Minister of the Government, or
 - (ii) by directors appointed by a Minister of the Government,
- or
- (d) a company in which all the shares are held by a board, authority or body referred to in *paragraph (b)* or by a company referred to in *paragraph (c)*. 10

Expenses of Minister.

21.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Expenses of Agency.

22.—(1) The administrative expenses of the Agency that are incurred in the performance of its functions shall be charged on and paid out of the Central Fund or the growing produce thereof. 15

(2) The expenses of the Agency that are incurred in the performance of its financing functions (including payments of interest and principal) shall be charged and paid out of repayments to the Agency on loans advanced by it. 20

(3) The expenses of the Agency that are incurred in the performance of its advisory functions in relation to specific public investment projects or specific related projects shall be charged on and paid out of the vote of the appropriate Department or Departments. 25

(4) In this section “expenses” includes any fee payable to a Board member, any consultant or adviser or other service provider engaged by the Agency under this Act.

Short title.

23.—This Act may be cited as the National Development Finance Agency Act, 2002. 30

SCHEDULE

STATE AUTHORITIES

A Minister of the Government.

A local authority.

5 The Commissioners of Public Works in Ireland.

The National Roads Authority.

A health board established under the Health Act, 1970.

The Eastern Regional Health Authority.

10 A university within the meaning of the Universities Act, 1997, other than Trinity College and the University of Dublin.

The Dublin Institute of Technology.

A college within the meaning of section 2 of the Regional Technical Colleges Act, 1992.

15 A vocational education committee within the meaning of section 7 of the Vocational Education Act, 1930.

Courts Service.

A harbour authority within the meaning of the Harbours Acts, 1946 to 1976.