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**AN BILLE UM FHORBAIRT TIONSCAIL 2008  
INDUSTRIAL DEVELOPMENT BILL 2008**

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*Mar a tionscnaíodh  
As initiated*

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**ARRANGEMENT OF SECTIONS**

Section

1. Definitions.
2. Transfer of shares to Agency.
3. Amendment of Industrial Development Act 1986.
4. Amendment of Industrial Development Act 1993.
5. Short title, collective citation and commencement.

**SCHEDULE**

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ACTS REFERRED TO

Industrial Development (Enterprise Ireland) Act 1998	1998, No. 34
Industrial Development (Science Foundation Ireland) Act 2003	2003, No. 30
Industrial Development Act 1986	1986, No. 9
Industrial Development Act 1993	1993, No. 19
Industrial Development Acts 1986 to 2006	



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**AN BILLE UM FHORBAIRT TIONSCAIL 2008**  
**INDUSTRIAL DEVELOPMENT BILL 2008**

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# **BILL**

*entitled*

5 AN ACT TO PROVIDE FOR THE TRANSFER OF SHARES  
HELD BY SHANNON FREE AIRPORT DEVELOPMENT  
COMPANY LIMITED TO ENTERPRISE IRELAND; TO  
AMEND THE INDUSTRIAL DEVELOPMENT ACT 1986  
10 AND THE INDUSTRIAL DEVELOPMENT ACT 1993;  
AND TO PROVIDE FOR MATTERS CONNECTED  
THEREWITH.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—In this Act—**

Definitions.

15 “Act of 2003” means the Industrial Development (Science Found-  
ation Ireland) Act 2003;

“Agency” means Enterprise Ireland established under section 6(1)  
of the Industrial Development (Enterprise Ireland) Act 1998;

“shareholder” means Shannon Free Airport Development Com-  
pany Limited;

20 “Minister” means the Minister for Enterprise, Trade and  
Employment.

25 **2.—(1)** All shares of whatever class in each of the companies  
specified in the Schedule that, immediately before the commence-  
ment of this Act, vested in the shareholder, shall upon such com-  
mencement stand vested in the Agency. Transfer of shares  
to Agency.

30 (2) The Agency shall, as soon as practicable after the commence-  
ment of this Act, notify each of the companies specified in the Sched-  
ule of the vesting in the Agency of shares in the company concerned  
by virtue of *subsection (1)* and particulars of such vesting shall be  
entered by that company in any register required to be maintained  
by the company in respect of the shares.

35 (3) This section shall apply to each of the companies specified in  
the Schedule notwithstanding any restriction in its memorandum of  
association or articles of association or any other instrument relating  
to the vesting or transfer of shares in the company concerned.

(4) All rights and liabilities of the shareholder arising by virtue of any contract in force immediately before the commencement of this Act and relating to any shares transferred by virtue of this section shall upon such commencement stand transferred to the Agency.

(5) Every right and liability transferred by this section to the Agency may, on and after the commencement of this Act, be sued on, recovered or enforced by or against the Agency in its own name and it shall not be necessary for the Agency to give notice to any person of the transfer of any right or liability by this section. 5

Amendment of Industrial Development Act 1986.

3.—The Industrial Development Act 1986 is amended— 10

- (a) in section 25 (inserted by section 29 of the Act of 2003), by substituting “€7,500,000” for “€5,000,000” in each place that it occurs,
- (b) in subsection (4) (inserted by section 30 of the Act of 2003) of section 28, by substituting “€7,500,000” for “€5,000,000” in each place that it occurs, 15
- (c) in section 29 (inserted by section 31 of the Act of 2003), by substituting “€7,500,000” for “€2,500,000” in each place that it occurs,
- (d) in subsection (4) (inserted by section 32 of the Act of 2003) of section 31, by substituting “€7,500,000” for “€5,000,000” in each place that it occurs, 20
- (e) in section 34 (inserted by section 33 of the Act of 2003), by substituting “€15,000,000” for “€10,000,000” in each place that it occurs, and 25
- (f) by the substitution of the following for the Third Schedule:

“THIRD SCHEDULE *Section 4.*

DESIGNATED AREAS

The counties of *Cavan, Donegal, Galway, Laois, Leitrim, Longford, Louth, Mayo, Monaghan, Offaly, Roscommon, Sligo and Westmeath.* 30

Amendment of Industrial Development Act 1993.

4.—The Industrial Development Act 1993 is amended—

- (a) in subsection (2) of section 11 (inserted by section 35(e) of the Act of 2003), by substituting “€7,000,000,000” for “€3,400,000,000”, and 35
- (b) in section 12 (inserted by section 35(f) of the Act of 2003), by substituting “€7,500,000” for “€5,000,000” in each place that it occurs.

Short title, collective citation and commencement.

5.—(1) This Act may be cited as the Industrial Development Act 2008. 40

(2) The Industrial Development Acts 1986 to 2006 and this Act may be cited together as the Industrial Development Acts 1986 to 2008.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order.

## SCHEDULE

*Section 2.*

1. 3D Eagle View International Limited
- 5 2. Abbey Mushroom Farm Limited
3. Advanced Manufacturing Control Systems Limited
4. Alpha Displays Limited
5. Altobridge Limited
6. Brandon Products Limited
- 10 7. Broadsword Technology (BST) Limited
8. Burrenside Mushrooms Public Limited Company
9. Chipsensors Limited
10. Datamate Global Communications Limited
11. Digitalmentors Limited
- 15 12. Fraysen Systems Limited
13. FMC Tech Limited
14. Homenet Communications Limited
15. Internet Control Solutions Limited
16. L.B.E. Limited
- 20 17. LIPOW Limited
18. Molloy Furniture Limited
19. M & Q Packaging Limited
20. Nowcasting International Limited
21. Ocean West Limited
- 25 22. Pharmaflow Limited
23. Philip Kenny Studio Limited
24. Powervation Limited
25. Pulselearning Limited
26. Romaquip Limited
- 30 27. Tango Telecom Limited
28. Taringold Limited



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**AN BILLE UM FHORBAIRT TIONSCAIL 2008  
INDUSTRIAL DEVELOPMENT BILL 2008**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*Purpose of the Bill*

The Bill is by its long title an Act to provide for the transfer of shares held by Shannon Free Airport Development Company Limited to Enterprise Ireland; to amend the Industrial Development Act 1986 and the Industrial Development Act 1993; and to provide for matters connected therewith.

*Main provisions of the Bill*

*Section 1* of the Bill sets out a number of Definitions relating to specific terms used in the body of the Bill.

*Section 2* of the Bill relates to Transfer of shares from the existing Shareholder (Shannon Free Airport Development Company Limited) to the Agency (Enterprise Ireland).

- Following a change in the Shannon Development mandate in 2007, Enterprise Ireland took over Shannon Development's responsibilities in relation to indigenous industry in the mid-west region. Shannon Development holds shares in 28 client companies and it is now necessary to transfer ownership of this equity to Enterprise Ireland. Enterprise Ireland have been advised that legislation is the only practical means of effecting this transfer, and of substituting Enterprise Ireland for Shannon Development in the various Shareholder Agreements and other documents relating to those shares. Shannon Development are in agreement with this approach.

*Section 3* sets out the proposed amendments of the 1986 Act relating to a) limits on grants payable to industry and b) the extension of designated areas set out in the Third Schedule of that Act to cover the entire BMW region.

- The Industrial Development Acts empower the agencies to make a wide range of grants and other incentives to client companies, subject to Government approval where specified thresholds are exceeded.
- These thresholds are kept under review and have been increased on a regular basis in the past (most recently in 2003). A further increase is now warranted to ensure that the Government has

to deal with only the more important projects. An increase of 50% is being proposed in most cases.

- The exception is the threshold for R&D grants, which is currently set at 50% of the thresholds applying to other grants (e.g. capital grants, employment grants and training grants). This reflected the position in the past when the type of R&D projects being assisted by the agencies were much smaller than they have become in recent years. R&D grants above the threshold are now quite routine and it is considered appropriate to apply the same threshold as applies to other types of grant. The increases proposed are as follows:
  - Employment Grants to Industry — from €5m to €7.5m
  - Training Grants to Industry — from €5m to €7.5m
  - R&D Grants to Industry — from €2.5m to €7.5m
  - Purchase of Shares — from €5m to €7.5m
  - Aggregate limit on Investment Aid — from €5m to €7.5m.
- The 1986 Industrial Development Act provides that the maximum capital grant that can be given to a company outside the “designated areas” is 45% of the cost of the assets. EU State Aid rules permit capital grants in the BMW region of up to 50% of the cost of the assets. The counties of Laois, Louth, Westmeath and Offaly (apart from the townland of Derrinlough) are not “designated areas”, as defined in the 1986 Act, but are in the BMW region. As a consequence, although EU rules would permit capital grants of up to 50% in these counties, national legislation limits the maximum grant to 45%. To remove this anomaly and provide equal treatment for all parts of the BMW region, it is proposed to extend the definition to include those counties in the BMW region that are currently excluded.

*Section 4* sets out the proposed amendments to the 1993 Act governing the limit on a) Cumulative Aggregate grants to Industry and b) industrial incentives.

- The Industrial Development Acts contain provision for an overall limit on the aggregate amount of grants paid by the development agencies to companies. (Similar limits are in place for all state agencies). This limit is kept under continuous review and has been increased on several occasions in the past (most recently in 2003). The current limit — €3.4 billion — is likely to be exceeded early in 2009. It is proposed to increase the limit to €7 billion, which broadly reflects planned expenditure on enterprise development under the NDP to 2013.
- The limit on industrial incentives originates from the 1993 Act. This limit is kept under continuous review and has been increased on several occasions in the past (most recently in 2003). A further increase is now warranted to ensure that the Government has to deal with only the more important projects. An increase of 50% is being proposed from €5m to €7.5m.
- It is important to note that any increase in aggregate grant limits is purely a technical issue and does not abrogate parliamentary control. The provision of funds to agencies will still be subject to parliamentary control on an annual basis via the estimates

process, parliamentary questions, public accounts committee, and submission of annual reports to the Dáil etc.

*Section 5* sets out the Short Title and commencement date

*Cost to Exchequer*

There are no costs to the Exchequer arising from these proposals.

*An Roinn Fiontar, Trádála agus Fostaíochta,  
Nollaig, 2008*