



Bill Digest

Industrial Development (Amendment) Bill 2019

No. 77 of 2019

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Abstract

The [*Industrial Development \(Amendment\) Bill 2019*](#) extends the powers of Enterprise Ireland: to provide grants to support research and development in the horticultural sector; to make grants for research outside the State; to provide loans; and to purchase shares and convertible debt instruments. The Bill also proposes to increase the lifetime cap on Oireachtas grants that may be made to the three enterprise development agencies, IDA Ireland, Enterprise Ireland and Science Foundation, and to Microfinance Ireland.

08 October 2019

Contents

Summary	1
Table of Provisions	2
Background.....	4
IDA Ireland	4
Enterprise Ireland	4
Science Foundation Ireland	5
Microfinance Ireland	6
Policy Context of the Bill	7
Previous examination of proposals	7
Principal Provisions of the Bill	8
Section 1: Amendment of <i>Industrial Development Act 1986</i>	8
Section 2: Amendment of <i>Industrial Development Act 1993</i>	10
Section 3: Amendment of <i>Industrial Development (Enterprise Ireland) Act 1998</i>	11
Section 4: Amendment of <i>Microenterprise Loan Fund Act 2012</i>	12

Bill published: 7 October 2019

Second stage debate: 10 October 2019

This Digest may be cited as:

Oireachtas Library & Research Service, 2019, *Bill Digest: Industrial Development (Amendment) Bill 2019*.

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Summary

Purpose of the Bill

A press release from the Department of Business, Enterprise and Innovation (DBEI) stated that: “[t]he Bill provides for further enhancements to the suite of ongoing Brexit supports, which the Government has been providing to a range of business sectors.”¹

Effects on Enterprise Ireland through amendments to the *Industrial Development Acts 1986 to 1998*

The Bill aims to strengthen the capacity of Enterprise Ireland (EI) to provide further research, development and innovation grants to its current set of client companies and to expand the potential range of clients to whom EI may offer assistance, by allowing EI to provide grants to the horticulture sector for the first time. The Bill also proposes to empower EI to provide development support to its clients through the provision of lending investment instruments while also empowering it to secure the value of its investments through follow on share investment and convertible debt instruments.

Increasing the overall funding cap of IDA Ireland, EI and Science Foundation Ireland

Outside of the Brexit context, the Bill proposes to increase the overall capital funding allowance that may be allocated to IDA Ireland, EI and Science Foundation Ireland (SFI), over the course of their lifetimes, from €7 billion to €14 billion. The relevant agencies are close to reaching their combined limit.² The increased cap is designed to ensure that the enterprise development agencies can continue their functions, allowing for expansion into the future. As noted by the press release of the DBEI this technical change was going to be made irrespective of Brexit.³

Microfinance Ireland through amendments to the *Microenterprise Loan Fund Act 2012*

One aim of the Bill is to provide further support to Irish businesses, in the case of a no deal Brexit scenario.⁴ It proposes increasing the overall funding of Microfinance Ireland (MFI) from €25 million to €35 million. This would ensure that the agency has sufficient resources to provide extra loans to microenterprises that may be affected in the case of a disorderly Brexit.

These changes are being brought within the context of the Government promising support for firms after Brexit.

¹ Department of Business, Enterprise and Innovation, Press Release, '[Industrial Development \(Amendment\) Bill 2019](#)', 1 October 2019.

² Fergal Blaney, '[Enterprise Minister Heather Humphreys to announce €7 billion annual funding boost for businesses after Brexit](#)', Irish Mirror, 1 October 2019.

³ Department of Business, Enterprise and Innovation, Press Release, '[Industrial Development \(Amendment\) Bill, 2019](#)', 1 October 2019.

⁴ '[Bill bumps up business support funding to €14bn](#)', *Law Society of Ireland Gazette*, 2 October 2019.

Table of Provisions

Section	Title	Effect
1.	Amendment of Industrial Development Act 1986	Amends section 29 of the Industrial Development Act 1986 to facilitate the provision by EI of grants for research and development in the horticulture sector and to provide research and development grants to partially fund research activities outside of Ireland by Irish-based companies. The section also proposes amendments to align Irish law with EU state aid rules by removing the existing restriction of EI research and development grants to 50% of the overall cost of a research project and to allow advance partial payment of EI research and development grants to companies, regardless of their size.
2.	Amendment of Industrial Development Act 1993	Amends sub-section 11(2) of the Industrial Development Act 1993 (as amended) ⁵ to increase the aggregate capital funding that may be provided to IDA Ireland, EI and SFI from €7 billion to €14 billion. Given that the cumulative total receipt of grants for the three agencies was €6.543 billion at the end of 2018, this amendment is considered necessary to allow the agencies to continue their functions without disruption.
3.	Amendment of Industrial Development (Enterprise Ireland) Act 1998	Inserts new sections 7A to 7D into the Industrial Development (Enterprise Ireland) Act 1998 to give EI statutory powers to invest in companies by means of convertible and non-convertible loans, and to set a cap for grants and investments by EI in any particular enterprise of €7.5 million (with provision for increase subject to prior Government approval).
4.	Amendment of Microenterprise Loan Fund Act 2012	Amends sub-section 5(2) of the Microenterprise Loan Fund Act 2012 to increase the limit on the cap on supplementary Oireachtas grants to MFI from €15 million to €25 million, effectively

⁵ [Sub-section 11\(2\) of the Industrial Development Act 1993](#) was amended by the [Industrial Development Act 2009 s. 4](#).

		increasing the total amount that may be granted to MFI to €35 million.
5.	Repeal	Repeals Part 3 of the <i>Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019</i> (not commenced), to remove repetition.
6.	Short title, collective citation and commencement	Standard provision that defines the short title of the Bill and provides for commencement by Ministerial order(s). Commencement orders may be limited to particular provisions of the Bill or purposes.

Background

IDA Ireland

IDA Ireland is a non-commercial statutory body, that aims to promote foreign direct investment into Ireland. The agency provides and administers grants and other financial incentives in support of new clients looking to invest in Ireland and existing clients looking to increase capacity and investment. The agency also provides support to clients through dedicated programmes and tools.⁶ In 2018, IDA Ireland received a total of €160,808,000 in grants from the Oireachtas, about €14 million less than in 2017.⁷

The body was originally founded in 1949 as part of the then Department of Industry and Commerce. The *Industrial Development Authority Act 1950* placed the authority on a statutory footing, precluding the banking, insurance and agricultural sectors from its remit.⁸ In 1969 the IDA was incorporated as an autonomous state-sponsored body under the *Industrial Development Act 1969*, conferring upon the body national responsibility for the furtherance of industrial development. The 1969 Act empowered the authority to provide and administer grants and other financial facilities with a mind to promoting Industrial development of the regions and the nation as a whole.⁹ The *Industrial Development Act 1993* established three separate agencies, Forfás, Forbairt and IDA Ireland.

Forfás, the lead agency, was given the role of advising the Minister on matters relating to the development of industry in the State and the role of advising and coordinating the work of Forbairt and IDA Ireland in relation to their functions. Forbairt was given the functions of developing industry in the State, strengthening the technological base and the capacity of industry to innovate and providing and administering services, grants and other investments to industry in support of development. IDA Ireland was empowered to focus exclusively on the promotion and development of high-quality foreign direct investment in Ireland.¹⁰ Although IDA Ireland's remit was initially limited to the manufacturing and international services sectors, it has since been expanded to include several other high-performance sectors.¹¹

Enterprise Ireland

Enterprise Ireland (EI) is the statutory body responsible for the development and growth of Irish-owned enterprises in international markets. EI is fundamentally export-focussed. According to its 2018 Annual Report, "Enterprise Ireland's mission is to deliver a major improvement in the international strength of Irish enterprise across all regions by transforming the innovation and

⁶ IDA Ireland, '[How we help: Support, Funding & Incentives](#)'.

⁷ IDA Ireland, '[IDA Ireland Annual Report 2018](#)', p. 35.

⁸ '[Industrial Development Authority Act 1950 s. 1](#)'.

⁹ '[Industrial Development Act 1969 s. 11](#)'.

¹⁰ '[Industrial Development Act 1993 ss 5-8](#)'.

¹¹ IDA Ireland, '[About IDA Ireland: History](#)'; IDA Ireland, '[Marking 70 Years of IDA Ireland](#)', *Blog Article*, 3 January 2019.

competitive capabilities of Irish companies”.¹² The agency aims to work with clients, providing grants and other financial incentives together with other supports, to help businesses improve sales and marketing, design, innovation, product and process research and development, with a mind to securing the international competitiveness and productivity of Irish business.¹³

At present, grants for research and development may only be awarded for the “promotion or development of new or improved industrial processes, methods or products”, and specifically those involving “development of local materials, agricultural products or other natural resources or to offer prospects of expansion in existing industry, promotion of new industry or to increase industrial employment or to enhance the viability, competitiveness or strategic importance of existing industry in the State.”¹⁴ In 2018, the agency received Oireachtas grants in the order of €268,583,000, almost €3 million less than in 2017.¹⁵

EI was established by the *Industrial Development (Enterprise Ireland) Act 1998*, taking over from Forbairt and An Bord Tráchtála (Irish Trade Board). An Bord Tráchtála itself had only been founded in 1991, through a merger of the Irish Goods Council and Córas Tráchtála,¹⁶ the latter of which was founded in 1959 to promote, assist and develop exports.¹⁷

Science Foundation Ireland

According to its annual report: “Science Foundation Ireland (SFI) is the national foundation for investment in research in the areas of science, technology, engineering, and mathematics (STEM), which assists in the development and competitiveness of industry, enterprise and employment in Ireland. It also promotes and supports STEM education and engagement to improve awareness and understanding of the value of STEM to society and to support the STEM careers pipeline.”¹⁸ To satisfy these aims, SFI awards financial grants and support payments to scientists and engineers working in the fields of science and engineering that underpin biotechnology, information and communications technology and sustainable energy and energy-efficient technologies.¹⁹ In 2018 the agency received Oireachtas grants in the order of €191,582,000, an increase of over €9 million from 2017.²⁰

SFI was first established in 2000, as a sub-board of Forfás, to administer Ireland’s Technology Foresight Fund, with an initial budget of €646 million. The fund itself was proposed by the Technology Foresight Ireland Reports, which concluded that biotechnology and information and communications technology represented “the engines of future growth in the global economy A

¹² Enterprise Ireland, [Enterprise Ireland Annual Report 2018](#), p. iii.

¹³ Department of Business, Enterprise and Innovation ‘[Focused Policy Assessment of Start Up and Entrepreneurship Expenditure](#)’, July 2018 p. 5.

¹⁴ [Industrial Development Act 1986 s. 29](#).

¹⁵ Enterprise Ireland, [Enterprise Ireland Annual Report 2018](#), p. 41.

¹⁶ [Trade and Marketing Promotion Act 1991 ss 5, 6](#).

¹⁷ [Export Promotion Act 1959 ss 3, 4](#);

¹⁸ Science Foundation Ireland, [Science Foundation Ireland Annual Report 2018](#), p. 1.

¹⁹ Science Foundation Ireland, ‘[History: About SFI](#)’.

²⁰ [Science Foundation Ireland Annual Report 2018](#), p. 50.

world class research capability in selected niches of these two enabling technologies is an essential foundation for future growth."²¹

In 2003, SFI was given a statutory footing of its own through the *Industrial Development (Science Foundation Ireland) Act 2003*. Among its statutory functions SFI is expected to promote, develop, assist and oversee the carrying out of oriented basic research²² in strategic areas of scientific endeavour that concerns the future development and competitiveness of industry and enterprise in the State, to ensure the integrity of that research and to actively attract researchers of a world-class standard to carry out oriented basic research in Ireland.²³ In 2013, the remit of SFI was extended to include both oriented basic research and applied research²⁴, allowing the research to be adapted further in line with market needs, with a final goal of furthering industrial development in the State.²⁵

Microfinance Ireland

The *Microenterprise Loan Fund Act 2012* established both the Microenterprise Loan Fund and a private company limited by shares, a subsidiary of Social Finance Foundation. The company, Microfinance Ireland (MFI) was empowered to lend to microenterprise and to manage the fund. The purpose of the fund is to help start-ups and established businesses to start up a new small business or expand an existing business.

MFI can provide loans of between €2,000 and €25,000 for what it deems to be commercially-viable proposals that may not meet the conventional risk criteria applied by commercial banks. The loans may be made out to any microenterprise, irrespective of its constitution – sole traders, partnerships and limited companies are all eligible to apply. However, to qualify as a microenterprise the applicant must comprise fewer than 10 employees and have an annual turnover of less than €2 million.²⁶

The fund received an initial Oireachtas grant of €10 million, with scope for additional Exchequer funding if deemed necessary subject to a lifetime cap of €25 million. Up until the end of 2018, MFI had approved €28 million in loans, assisted by €20 million in State funding, and had secured funding from the European Investment Fund and syndicated bank loans. MFI works closely with Local Enterprise Offices which assist potential applicants with completing the relevant forms and

²¹ Science Foundation Ireland, '[History: About SFI](#)'.

²² 'Oriented basic research' means research that is carried out with the expectation that it will produce a broad base of knowledge that is likely to form the background to the solution of recognised or expected current or future problems or possibilities: see [Industrial Development \(Science Foundation Ireland\) Act 2003 s. 2](#).

²³ [Industrial Development \(Science Foundation Ireland\) Act 2003 ss 6, 7](#).

²⁴ 'Applied research' means original investigation undertaken in order to acquire new knowledge directed primarily towards a specific practical aim or objective. See [Industrial Development \(Science Foundation Ireland\) \(Amendment\) Act 2013 s. 3](#).

²⁵ [Industrial Development \(Science Foundation Ireland\) \(Amendment\) Act 2013 s. 4](#).

²⁶ Microfinance Ireland, '[About us: What We Do](#)'; [Explanatory Memorandum to the Microenterprise Loan Fund Bill 2012](#); [Microenterprise Loan Fund Act 2012 s. 2\(2\)](#).

providing ongoing training and mentoring.²⁷ In 2018, MFI had a deficit of €1,528,000, €13,000 bigger than the previous year.²⁸

Policy Context of the Bill

The [Explanatory and Financial Memorandum to the Bill](#) states that the proposed amendments are:

“ ... related to the granting of lending powers to Enterprise Ireland and other provisions related to support for research, development and innovation (RDI) in several critical sectors [and] ... to further support the enterprise base to remain competitive on the global market through the support of Enterprise Ireland, thus limiting the negative effects Brexit could have.”

The Bill also proposes to increase the lifetime cap on Oireachtas grants to IDA Ireland, EI and SFI, and to increase the aggregate limit on grants made to MFI to allow the three enterprise development agencies and MFI to continue to carry out their work in an effective manner.

Previous examination of proposals

In November 2018, the Joint Committee on Business, Enterprise and Innovation [considered](#) many of these proposals²⁹ in its pre-legislative scrutiny of the General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, when they formed part of the General Scheme of the of the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019.³⁰ The General Scheme considered by the Joint Committee also included proposals to permit IDA Ireland to enter into certain types of property partnerships and to remove an ambiguity relating to the application of the [Freedom of Information Act 2014](#) to Enterprise Ireland. These are not included in the current Bill. The relevant sections of that pre-legislative scrutiny has been included below, in the detailed examination of the provisions of the Bill.

²⁷ Microfinance Ireland, [Director's Report and Financial Statement for the year ended 31 December 2018](#), pp 4, 7.

²⁸ Microfinance Ireland, [Director's Report and Financial Statement for the year ended 31 December 2018](#), p. 19.

²⁹ The exceptions being the proposed section 2, related to increasing the cap on grants payable to the three development agencies, the insertion of a new section 7C into the *Industrial Development (Enterprise Ireland) Act 1998* by proposed section 3, and the proposed section 4, which aims to increase the supplementary funding cap on grants that may be made to MFI.

³⁰ See the Joint Committee on Business, Enterprise and Innovation, debate, 7 November 2018, pre-legislative scrutiny of General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, available [here](#).

Principal Provisions of the Bill

This section of the Digest examines the main provisions of the Bill. The Bill comprises six sections. Sections 1 to 4 are the substantive sections of the Bill. Section 5 of the Bill repeals [Part 3 of the *Withdrawal of the United Kingdom from the European Union \(Consequential Provisions\) Act 2019*](#) (uncommenced) to avoid repetition. Section 6 of the Bill relates to the short title and commencement of the Bill. Sections 5 and 6 are standard provisions and for that reason they are not discussed below. A short synopsis of each provision is provided in the Table of Provisions (above).

Section 1: Amendment of [Industrial Development Act 1986](#)

Grants for horticulture

The existing statutory criteria for research grants are strongly oriented towards research into industrial processes and products, including those that use agricultural products or natural resources. The section proposes two amendments to these:

- allowing grants for research into “non-industrial” as well as industrial processes, methods or products, and
- including a reference to “horticultural products” among those (local materials, agricultural products and natural resources) to be used in the processes, methods or products being researched.

[Enterprise Ireland’s web site](#) estimates the ‘farmgate’ value of horticulture in Ireland at €400 million. It lists key crops as mushrooms, potatoes, field vegetables, fruit, nursery stock, cut foliage, Christmas trees and bulbs. The principal export crop is said to be mushrooms, with exports to the UK accounting for 75% of Irish production. Berries (principally strawberries) and nursery stock are also mentioned as contributing to horticultural exports.

Grants for Research outside the State

The existing statutory criteria for research grants require that research supported by grants from IDA Ireland or Enterprise Ireland be conducted wholly or mainly in the State, and to be sponsored wholly or mainly by industrial undertakings in the State.

The section proposes amendments that would allow Enterprise Ireland to grant aid research projects in which a greater portion of the research is to be conducted outside the State. Up to 50% of qualifying research grants could be spent on research conducted outside the State, provided at least the same amount is spent on research in the State. The foreign component could be grant funded up to 100% of its cost, provided the aggregate spent abroad does not exceed the amount spent in the State, and the overall financial limits are observed. In this way, it is proposed that essential research can be funded without ‘exporting’ the full benefit of research grants.

The Explanatory Note to Head 3 of the General Scheme of the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019³¹

³¹ [General Scheme of the Miscellaneous Provisions \(Withdrawal of the United Kingdom from the European Union on 29 March 2019\) Bill 2019](#) p. 8.

explained that these amendments may become necessary after Brexit, and should facilitate the provision of grant aid to large indigenous companies that are leaders in the veterinary and pharmaceutical industries. In a presentation on this proposal to the Joint Committee on Business, Enterprise and Innovation in November 2018, Mr Kevin Sherry of EI stated that this proposal was intended to facilitate development projects in cases where suitable research or development facilities, such as for testing, were not available in the State.³² Mr Sherry noted:

“ ... the amount of support that would be provided for the activities within the State would exceed the amount that would be devoted towards activities outside the State. The ultimate objective is that the resulting product or service would benefit Ireland in the form of additional jobs, sales and value added.”³³

Research Grants up to EU Limits

Current legislation sets financial limits on the proportion of research projects that Enterprise Ireland may fund through grants (maximum 50%) and the overall amount of individual grants (maximum of €7.5 million in any particular case, but subject to increase if approved by Government).³⁴ The 50% limit is more restrictive than the proportion allowed – in some cases – by EU state aid rules, particularly [Commission Regulation No 651/2014](#). That Regulation allows grant funding above 50% of the cost:

- if the recipient is a medium-sized enterprise, the rate may be increased by 10%;
- if the recipient is a small enterprise, the rate may be increased by 20%; and
- in certain other cases, the rate may be increased by 15%.

The additional allowances under Article 25(6) of the Regulation can permit increases of the level of permitted research grant funding to a maximum of 80% of eligible costs.³⁵ The 50% limit in current Irish legislation therefore limits the amount of research grants to an extent that is not required by EU law. This section proposes to address this by deleting the reference to 50% of the research costs.

The financial limit of €7.5 million would remain, but the proposed amendment would allow the maximum percentage of allowable research costs to be governed by the Regulation.

In a presentation on this proposal to the Joint Committee on Business, Enterprise and Innovation in November 2018, Mr Richard Scannell, Principal Officer, DBEI, said that these proposals were intended to “remove legal uncertainty to allow Enterprise Ireland to permit research grants up to

³² Joint Committee on Business, Enterprise and Innovation, debate, 7 November 2018, pre-legislative scrutiny of General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, available [here](#).

³³ [Ibid.](#)

³⁴ See [section 29 of the Industrial Development Act 1986](#).

³⁵ Note however that the Regulation does not impose any financial limit, while [section 29 of the Industrial Development Act 1986](#) sets the maximum grant at €7.5 million.

EU state aid limits” and “allow Irish companies to operate on a level playing field with their EU competitors”.³⁶

Partial Advance Payment of Research Grants

[Section 29\(5\) of the Industrial Development Act 1986](#) provides for IDA Ireland and Enterprise Ireland to pay up to one third of research grants in advance of the relevant costs being incurred. This facility is expressed to be available only “in the case of small undertakings as defined from time to time by the Minister [for Business, Enterprise and Innovation]”. No such definition has ever been made, so advance payments of research grants cannot, and have not, been made.

The proposed section would remove the reference to “small undertakings” and the provision for the Minister to define that term. The effect would be to allow advance payments of up to one third of research grants to undertakings of any size.

Section 2: Amendment of [Industrial Development Act 1993](#)

Increase in the lifetime cap of the IDA Ireland, Enterprise Ireland and Science Foundation Ireland

As of the end of 2018, the three enterprise development agencies had received a total of €6.543 billion in Oireachtas grants. The combined limit as set by [sub-section 11\(2\) of the Industrial Development Act 1993](#) (as amended)³⁷ is currently €7 billion. As such, the agencies are very close to reaching their combined limit.³⁸ The increased cap is designed to ensure that the enterprise development agencies can continue their functions, allowing for expansion into the future. As noted by the press release of the DBEI this technical change was going to be made irrespective of Brexit.³⁹

The Explanatory and Financial Memorandum to the Bill states that there would be no additional costs to the Exchequer through the proposed increase as “[a]ny costs arising will be accommodated within the agencies’ existing resources in the context of the annual estimates process.”⁴⁰

³⁶ Joint Committee on Business, Enterprise and Innovation, debate, 7 November 2018, pre-legislative scrutiny of General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, available [here](#).

³⁷ Sub-section 11(2) of the [Industrial Development Act 1993](#) was amended by the [Industrial Development Act 2009 s. 4](#).

³⁸ Ferghal Blaney, ‘[Enterprise Minister Heather Humphreys to announce €7 billion annual funding boost for businesses after Brexit](#)’, *Irish Mirror*, 1 October 2019.

³⁹ Department of Business, Enterprise and Innovation, Press Release, ‘[Industrial Development \(Amendment\) Bill 2019](#)’, 1 October 2019.

⁴⁰ [Explanatory and Financial Memorandum to the Industrial Development \(Amendment\) Bill 2019](#).

Section 3: Amendment of [Industrial Development \(Enterprise Ireland\) Act 1998](#)

Power to make loans to certain industrial undertakings or bodies corporate

Section 3 proposes the insertion of a new section 7A into the [Industrial Development \(Enterprise Ireland\) Act 1998](#), giving Enterprise Ireland the power to lend money to client companies. The qualifying conditions for enterprises that receive loans are framed in terms similar to those for other supports such as grants and share investments. The maximum loan investment in any particular company would be limited to €7,500,000, but this may be increased with the prior consent of the Government. This mirrors existing powers under the [Industrial Development Act 1986](#), but whereas that Act applies both to IDA Ireland and Enterprise Ireland, the new provision will give a statutory power exclusively for Enterprise Ireland.

The Minister for Business, Enterprise and Innovation, Heather Humphreys TD, raised this proposal during debates on the *Industrial Development (Amendment) Bill, 2018*, saying that they would “increase the flexibility to support enterprise development and to manage those investments on a par with private sector investors.”⁴¹

Power to purchase shares and convertible debt instruments

Section 3 proposes the insertion of a new section 7B into the [Industrial Development \(Enterprise Ireland\) Act 1998](#), giving Enterprise Ireland express statutory powers to invest in qualifying companies through the purchase of shares or convertible debt instruments. This provision is based in part on [section 31 of the Industrial Development Act 1986](#), which currently governs share investments by IDA Ireland and Enterprise Ireland. The proposed amendment, when read in line with the proposed new section 7D, would remove Enterprise Ireland from the ambit of section 31 and replace its provisions in relation to Enterprise Ireland’s share investments. As under the proposed new section 7A, the maximum investment in any particular company would be €7.5 million, subject to increase with prior approval by the Government. The proposed new section 7B is intended to provide a stand-alone statutory basis for Enterprise Ireland’s investment in shares and other convertible debentures.

In a [presentation to the Joint Committee on Business, Enterprise and Innovation](#) on the General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, Mr Richard Scannell of DBEI noted that convertible loan finance was favoured by both private sector investors and other countries’ development agencies.⁴² He added:

“This will in no way change the developmental approach of Enterprise Ireland. The amendments are simply aimed at increasing its flexibility to support enterprise development and ensure that Enterprise Ireland is not at a financial disadvantage to the private sector when providing investment to a company in a funding round. Moreover, as lending is more

⁴¹ Select Committee on Business, Enterprise and Innovation debate, 9 May 2018, *Industrial Development (Amendment) Bill, 2018* - Committee Stage, available [here](#).

⁴² Joint Committee on Business, Enterprise and Innovation, debate, 7 November 2018, pre-legislative scrutiny of General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018, available [here](#).

secure than taking equity, the State's investment in these situations would be better protected."⁴³

At the same hearing, Mr Kevin Sherry of Enterprise Ireland explained that the use of convertible loan notes would therefore allow Enterprise Ireland to invest on a *pari passu* (equal footing) basis with private sector investors.⁴⁴

Aggregate Limit on Investment Aid

Section 3 proposes the insertion of a new section 7C into the [Industrial Development \(Enterprise Ireland\) Act 1998](#), which would provide a separate statutory provision limiting the aggregate amount of investment aid (that is, grants and investments such as loans, shares and convertible debt instruments) that Enterprise Ireland may provide to individual undertakings. The current provision – [section 34 of the Industrial Development Act 1986](#) – was enacted to apply only to IDA Ireland but was subsequently extended to Enterprise Ireland. The proposed new provision will provide specifically for Enterprise Ireland and will take account of provisions specific to that agency, including those relating to loans, shares and convertible debenture provided for in the proposed new sections 7A and 7B.

The proposed new provision would limit grants and investments in particular undertakings to a maximum aggregate of €15 million, but with provision for additional investments with the prior approval of the Government.

Section 4: Amendment of [Microenterprise Loan Fund Act 2012](#)

[Sub-section 5\(1\) of the Microenterprise Loan Fund Act 2012](#) required the Minister for Business, Enterprise and Innovation to award an Oireachtas grant of €10 million to establish the Microenterprise Loan Fund. Sub-section (2) empowered the Minister to provide additional Oireachtas grants of up to €15 million in total. By the end of 2018, Microfinance Ireland had received approximately €20 million in State funding, €5 million short of the cap.

The proposed amendment to [subsection 5\(2\) of the Microenterprise Loan Fund Act 2012](#) will allow the Minister to award grants totalling a further €10 million. The Explanatory and Financial Memorandum to the Bill notes that this increased capacity would “enable MFI to provide increased lending in the event of a disorderly Brexit.”⁴⁵ Should the extra grant(s) be made, the cost to the Exchequer would be up to €10 million, but this would be contingent on a ‘hard’ Brexit.⁴⁶

⁴³ [Ibid.](#)

⁴⁴ [Ibid.](#)

⁴⁵ [Explanatory and Financial Memorandum to the Industrial Development \(Amendment\) Bill 2019.](#)

⁴⁶ [Ibid.](#)



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