



Tithe an  
Oireachtais  
Houses of the  
Oireachtas

*An Comhchoiste um Ghnó, Fiontair agus Nuálaíocht*

Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar Scéim Ghinearálta  
an Bhille um Fhorbairt Tionscail (Forálacha Ilghnéitheacha), 2018

Aibreán 2019

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*Joint Committee on Business, Enterprise and Innovation*

Report on Pre-Legislative Scrutiny of the General Scheme of the Industrial  
Development (Miscellaneous Provisions) Bill 2018

April 2019

**032 BEI 019**





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An Comhchoiste um Ghnó, Fiontair agus  
Nuálaíocht



Joint Committee on Business, Enterprise  
and Innovation



## Introduction

In accordance with Standing Order 146A, the General Scheme of the Industrial Development (Miscellaneous Provisions) Bill 2018 (hereinafter the General Scheme) was referred by Minister Heather Humphreys to the Committee on 9 October 2018. The Committee agreed to carry out Pre-Legislative Scrutiny of the General Scheme on 16 October 2018.

The Committee met with officials from the Department of Business, Enterprise and Innovation (hereinafter the Department), and representatives from IDA Ireland and Enterprise Ireland on 7 November 2018.

The General Scheme comprises nine heads and proposes a number of amendments affecting the work of IDA Ireland (Head 1) and Enterprise Ireland (Head 2-9).

The Committee is aware that - with the exception of Heads 1 and 8 - the Heads of the General Scheme were included in the [Withdrawal of the United Kingdom from the European Union \(Consequential Provisions\) Act 2019](#).



## Provisions of the General Scheme

The General Scheme includes nine heads. Head 1 relates to the IDA, while the remaining heads relate to Enterprise Ireland. Heads 2 to 5 are proposed amendments to legislation on the payment of research Grants. Heads 6 and 7 allow for Enterprise Ireland to issue convertible and non-convertible loans. Heads 8 and 9 clarify Enterprise Ireland's position under the Freedom of Information Act 2014 and the maximum investment in one industrial undertaking without Government approval.

### Head 1 (IDA Ireland)

**Head 1** allows for the IDA to enter into partnerships with others to develop new industrial or commercial buildings in regional locations. The IDA will be able to carry out its property functions through subsidiaries (wholly owned by the IDA or not). The IDA will be able to invest money and land in these partnerships, and to borrow money to invest in them.

A number of limitations are placed on these powers. The investment of money and borrowing are subject to financial limits (to be set out in the legislation) and other terms and conditions set by the Minister for Business, Enterprise and Innovation and the Minister for Finance, while the investment of land requires the express consent of the Minister of Business, Enterprise and Innovation. The proposed powers may only be used if the IDA is satisfied that it aids the national objective of industrial development in the regions.

Officials from the Department outlined to the Committee that the amendments proposed in this head arise as a result of the significant decrease in new private commercial construction outside Dublin. The Department states that this has led to a supply shortage which is impacting on the ability to attract more Foreign Direct Investment (FDI) to regional locations. The proposed changes would allow the IDA to enter into partnerships with other parties to develop property solutions. These buildings can then be sold or leased at their full commercial value.

The Committee heard that it is intended to establish a pilot programme involving a partnership between the IDA and Irish Strategic Investment Fund. Together they have developed a proposal to develop two office blocks on IDA land in Limerick and Galway. The IDA will, if the pilot is successful, be able to borrow funds for other projects.

Representatives from the IDA stated that it is not in a position to fund these buildings itself and has been encouraged by the Government to source its own funding for building to decrease its dependence on Exchequer funding. It was also highlighted that it would be for Eurostat to decide if this form of government borrowing would be off-balance sheet.

It was also clarified that under the proposals, the IDA must seek ministerial approval to contribute land to a partnership, as it would if selling a building to a non-IDA or Enterprise Ireland client.

### Heads 2-5 (Enterprise Ireland)

Heads 2 to 5 are related to the payment of research grants.

**Head 2** allows for Enterprise Ireland to give training and R&D grants to “non-industrial” and horticultural sectors.





**Head 3** allows Enterprise Ireland give grants for activities taking place outside of Ireland as long as the grant is to an undertaking in the State, and that at least half of the research grant is spent on research in Ireland.

Representatives from Enterprise Ireland and the Department highlighted that some research activities cannot be undertaken within the State, due, for example, to the lack of facilities.

**Head 4** allows for research grant funding up to EU limits. The current limit in Irish legislation for the proportion of funding for research projects (50%) is lower than the EU General Block Exemption Regulation which allows increased support depending on company size.<sup>1</sup>

Officials from the Department stated that allowing Enterprise Ireland give grants up to EU limits would bring legal certainty to research grant funding.

**Head 5** allows for the advance partial payment of up to one-third of R&D grants regardless of company size. The need for this was raised during consultations with Enterprise Ireland clients.

### Heads 6 & 7 (Enterprise Ireland)

Heads 6 and 7 offer Enterprise Ireland new instruments to provide finance for client companies.

**Head 6** allows Enterprise Ireland to use non-convertible loan instruments to provide loans to their client companies.

**Head 7** allows Enterprise Ireland to subscribe to convertible loan notes and addresses a number of issues that will allow Enterprise Ireland to operate as a shareholder in the normal course of business. Convertible loan notes, a form of loan that can be converted into shares in the company according to a defined formula, are being increasingly used by private investors. Representatives from Enterprise Ireland also highlighted that convertible loan notes will rank ahead of a convertible preference share in the case of liquidation, thereby offering greater protection to the State's investments.

Officials from the Department and Enterprise Ireland outlined that the use of both convertible and non-convertible loan instruments would allow Enterprise Ireland to follow the increasing trend for investment in companies by way of debt instruments, rather than solely relying on equity investment. A number of other EU countries have also adopted this approach. The loans provided by Enterprise Ireland will be aimed at helping to scale companies, not to provide short-term working capital loans.

The Department also state that there is no intention to replace any current bank lending. Applicants would have to be Enterprise Ireland client companies and any lending would have to be consistent with Enterprise Ireland's developmental mandate.

<sup>1</sup> General Block Exemption Regulation (GBER) on State Aid – maximum aid intensities for R&D projects

	Small enterprise	Medium-sized enterprise	Large enterprise
Industrial research	70%	60%	50%



### Enterprise Ireland (Heads 8-9)

**Head 8** clarifies Enterprise Ireland's obligation under the Freedom of Information Act 2014.

**Head 9** ensures that any investment in a single industrial undertaking (including the proposed new debt instruments) cannot exceed €7.5 million without Government permission.



## Committee's Observations

Following its consideration of the General Scheme of the Industrial Development (Miscellaneous Provisions) Bill, the Committee:

- Welcomes the proposed changes to afford the IDA greater scope to develop and improve its property solutions in regional areas.
- Notes that the IDA will undertake a pilot development programme with the Irish Strategic Investment Fund, and that further projects will be based on the success of the pilot programme.
- Welcomes the proposed changes to allow Enterprise Ireland offer training, and Research and Development grants to the non-industrial sector.
- Welcomes, particularly in the context of the UK's withdrawal from the EU, that it is proposed that Enterprise Ireland will be able to offer grants in accordance with EU limits.
- Notes the need for Enterprise Ireland to offer debt instruments.
- Notes that a significant number of the provisions of the General Scheme have been included in the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019.
- Looks forward to considering the remaining provisions of the Bill at Committee Stage.



## Appendices

### Appendix1: Committee Membership

Chairperson: Mary Butler (FF)

Deputies: Lisa Chambers (FF)

Billy Kelleher (FF)

James Lawless (FF)

Tom Neville (FG)

Maurice Quinlivan (SF)

Noel Rock (FG)

Senators: Aidan Davitt (FF)

Pádraig Mac Lochlainn (SF)

Kevin Humphreys (LAB)

James Reilly (FG)

#### Notes:

1. Deputies appointed to the Committee by order of the Dáil on 16 June 2016.
2. Deputy Mary Butler was appointed as Chair on 16 June 2016.
3. Senators appointed to the Committee by order of the Seanad on 21 July 2016.
4. Deputy Gino Kenny replaced Deputy Bríd Smith on 26 October 2017.
5. Senator Kevin Humphreys replaced Senator Ged Nash on 16 November 2017.
6. Deputy James Lawless replaced Deputy Gino Kenny on the 20 February 2018
7. Deputy Billy Kelleher replaced Deputy Niall Collins on the 17 April 2018
8. Deputy Lisa Chambers replaced Deputy Stephen Donnelly on 17 April 2018
9. Deputy Tom Neville elected as Vice Chair on 24 April 2018.
10. Senator Pádraig Mac Lochlainn replaced Senator Paul Gavan on 9 October 2018



## Appendix 2: Terms of Reference

### a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
  - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
  - (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
  - (c) Estimates for Public Services, and
  - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
  - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
  - (a) matters of policy and governance for which the Minister is officially responsible,



- (b) public affairs administered by the Department,
  - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
  - (d) Government policy and governance in respect of bodies under the aegis of the Department,
  - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
  - (f) the general scheme or draft heads of any Bill,
  - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
  - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
  - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
  - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
  - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and



- (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
  - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (c) at the invitation of the Committee, other Members of the European Parliament.
- (8) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
  - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select.



**b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]**

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.