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*Number 30 of 2003*

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**INDUSTRIAL DEVELOPMENT (SCIENCE FOUNDATION  
IRELAND) ACT 2003**

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AN ACT TO MAKE FURTHER PROVISION FOR THE DEVELOPMENT OF INDUSTRY, TRADE AND ENTERPRISE AND FOR THAT PURPOSE TO ESTABLISH A BODY TO BE KNOWN AS SCIENCE FOUNDATION IRELAND OR, IN THE IRISH LANGUAGE AS FONDÚIREACHT EOLAÍOCHTA ÉIREANN, TO DESIGNATE FUNCTIONS, TO AMEND THE INDUSTRIAL DEVELOPMENT ACTS 1986 TO 1998, THE SHANNON FREE AIRPORT DEVELOPMENT COMPANY (AMENDMENT) ACT 1986 AND TO PROVIDE FOR RELATED MATTERS. [14th July, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Industrial Development (Science Foundation Ireland) Act 2003.

Short title,  
collective citation  
and  
commencement.

(2) The Industrial Development Acts 1986 to 1998 and this Act may be cited together as the Industrial Development Acts 1986 to 2003.

(3) The Shannon Free Airport Development Limited Acts 1959 to 1998 and *section 34* of this Act may be cited together as the Shannon Free Airport Development Limited Acts 1959 to 2003.

(4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

2.—(1) In this Act, unless the context otherwise requires—

Interpretation.

“Act of 1986” means the Industrial Development Act 1986;

“Act of 1993” means the Industrial Development Act 1993;

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“Act of 1995” means the Industrial Development Act 1995;

“Act of 1998” means the Industrial Development (Enterprise Ireland) Act 1998;

“Board” means the Board of the Foundation referred to in *section 8*;

“Director General” means the chief officer of the Foundation appointed under *section 13*;

“establishment day” means the day appointed by the Minister under *section 3* to be the establishment day;

“Forfás” has the meaning assigned to it by section 5 of the Act of 1993;

“Foundation” has the meaning assigned to it by *section 6*;

“functions” includes powers and duties, and reference to the performance of functions includes, as respects powers and duties, references to the exercise of the powers and performance of the duties;

“institution” means any institute, university, college, laboratory, office or service (whether under the control of a Minister or otherwise) which is wholly or partly engaged in research and development or any other activity related to science or technology;

“Minister” means the Minister for Enterprise, Trade and Employment;

“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;

“prescribed” means prescribed by regulations made by the Minister;

“remuneration” includes allowances for expenses, benefits-in-kind and superannuation;

“superannuation benefits” means pensions, gratuities and other allowances payable on resignation, retirement or death.

(2) In this Act—

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

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

(c) a reference to an enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

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3.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. Pr.1  
Establishment day.

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

5.—(1) The Minister may by regulations, provide for any matter referred to in this Act as prescribed or to be prescribed, and make regulations generally for the purpose of giving effect to this Act. Regulations.

(2) Regulations under this Act may contain such consequential, supplementary and ancillary provisions as the Minister considers to be necessary or expedient.

(3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

## PART 2

### SCIENCE FOUNDATION IRELAND

6.—(1) There shall stand established on the establishment day an agency of Forfás to be known as Science Foundation Ireland or, in the Irish language, Fondúireacht Eolaíochta Éireann to perform the functions assigned to it by this Act and is referred to in this Act as the “Foundation”. Establishment of  
Foundation.

(2) The Foundation shall be a body corporate with perpetual succession and an official seal.

(3) The Foundation shall have the power to sue and be sued in its own name.

(4) The Foundation shall have the power to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

7.—(1) The Foundation shall—

Functions of  
Foundation.

(a) promote, develop and assist the carrying out of oriented basic research in strategic areas of scientific endeavour that concerns the future development and competitiveness of industry and enterprise in the State,

(b) endeavour to ensure that a standard of excellence in the oriented basic research referred to in *paragraph (a)*, as measured by competitive peer review on an international basis, is consistently adhered to at the highest level,

(c) develop and extend the capability for the carrying out of oriented basic research in institutions,

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- (d) promote the attraction of research teams and individuals with an interest in research, that are of a world-class standard, with a view to their carrying out oriented basic research in the State,
- (e) devise, administer, allocate, monitor and evaluate any grants, schemes and other financial facilities requiring disbursement of any funds authorised from time to time by the Minister with the concurrence of the Minister for Finance,
- (f) carry out such other functions that concern oriented basic research or strategic areas of scientific endeavour as may from time to time be assigned to it, with the consent of the Minister, by Forfás, and
- (g) co-operate and collaborate with other statutory bodies in the promotion and encouragement of oriented basic research.

(2) The Foundation shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.

(3) In this section “strategic areas of scientific endeavour” includes—

- (a) information and communications technologies,
- (b) biotechnology, and
- (c) such other areas that concern economic and social benefit, long-term industrial competitiveness or environmentally sustainable development as may be prescribed from time to time by the Minister.

(4) The Foundation shall comply with such general directives relating to the policy to be followed by it in the exercise of its functions as may be given by the Minister.

Board of Foundation.

**8.—**(1) The members of the Foundation shall constitute its Board.

(2) The Board shall consist of 12 members.

(3) The Board shall include the Director General.

(4) The members of the Board (other than the Director General) shall, as soon as may be after the establishment day, be appointed by the Minister, with the consent of the Minister for Finance following consultation with the Minister for Education and Science.

(5) The Minister for Education and Science shall nominate a person for appointment to the Board.

(6) The Minister shall designate one member of the Board as the chairperson.

(7) The Minister shall designate one member of the Board as deputy chairperson who shall, in the absence of the chairperson, act as the chairperson.

Membership of Board.

**9.—**(1) There shall be paid to the members of the Board such remuneration (if any) and such allowances for expenses incurred by



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them as the Minister, with the consent of the Minister for Finance, Pr.2 S.9 may from time to time determine.

(2) Each member of the Board shall hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister determines at the time of his or her appointment.

(3) On the first anniversary of the establishment day and thereafter on each anniversary of the establishment day 2 of the members of the Board (other than the chairperson and the Director General) shall retire from office.

(4) The members who are required under *subsection (3)* to retire in any year shall be those who have been longest in office since their last appointment, and where there are members whose appointment was made on the same day and who are obliged to retire under *subsection (3)*, the members to retire shall, unless such members otherwise agree, be determined by lot.

(5) A member of the Board (other than the Director General) shall not serve for more than 10 consecutive years.

(6) A member of the Board shall be disqualified from being such a member where he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is convicted of an indictable offence in relation to a company,
- (d) is convicted of an offence involving fraud or dishonesty, or
- (e) is disqualified or restricted from being a director of any company (within the meaning of the Companies Acts 1963 to 2001).

(7) A 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 that letter or on receipt of that letter by the Minister, whichever is the later.

(8) A member of the Board may at any time for stated reasons be removed from membership of the Board by the Minister if, in the opinion of the Minister, 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 Foundation of its functions.

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

(10) A member of the Board whose period of membership expires by the effluxion of time may, subject to *subsection (5)*, be eligible for re-appointment as a member of the Board.

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(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.

Chairperson of Board.

**10.**—(1) The term of office of the chairperson of the Board shall be 5 years.

(2) Where the chairperson of the Board ceases to be a member of the Board he or she shall also thereupon cease to be chairperson of the Board.

(3) The chairperson of the Board may at any time resign his or her office as chairperson by letter sent to the Minister and the resignation shall, unless previously withdrawn in writing, take effect at the commencement of the meeting of the Board held next after the Board has been informed by the Minister of the resignation.

(4) The chairperson of the Board shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *subsection (2)* or *(3)*, hold office until the expiration of his or her period of membership of the Board and, if he or she is re-appointed as a member of the Board, he or she shall be eligible for re-appointment as chairperson of the Board.

Meetings of Board.

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

(2) The Minister, in consultation with the chairperson of the Board, shall fix the time of the first meeting of the Board.

(3) The quorum for a meeting of the Board shall be 5.

(4) At a meeting of the Board—

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

(b) if and so long as the chairperson of the Board is not present or if the office of the chairperson is vacant, the deputy chairperson shall be the chairperson of the meeting, and

(c) if the chairperson is not present and the deputy chairperson is not present or the office of the deputy 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 of the Board present, including the chairperson, shall, subject to *section 16*, have a vote and any question on which a vote is required in order to establish the view of the Board on the matter shall be determined by a majority of votes of the members of the Board 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.

(6) The Board may act notwithstanding one or more vacancies among its members.

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

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12.—(1) Where a member of the Board—

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament,
- (c) is regarded pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy, or
- (d) becomes a member of a local authority,

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

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

(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 shall, while he or she is so entitled or is such a representative, be disqualified from becoming a member of the Board.

(3) A person who is a member of a local authority shall be disqualified from becoming a member of the Board.

13.—(1) There shall be a chief officer of the Foundation who shall be known, and is referred to in this Act, as the Director General.

(2) Subject to *subsection (9)*, the Director General shall be appointed by the Board.

(3) The Director General shall hold office for such term being not more than a period of 5 years and upon and subject to such terms and conditions (including remuneration) as the Board, with the consent of the Minister and the Minister for Finance, may determine.

(4) The Director General may be re-appointed for a second term.

(5) The Director General shall, for the duration of his or her appointment, become an *ex officio* member of the Board and the board of Forfás.

(6) The Director General shall carry on and manage and control generally the administration and business of the Foundation and shall perform such other functions as may be determined by the Board.

(7) The Director General shall not hold any other office or position or carry on any business without the consent of the Board.

(8) For the purposes of appointing the person to be the Director General appointed immediately after the establishment day, the Minister may, before the establishment day, designate a person to be appointed under this section immediately after the establishment day.

(9) If a person has been designated in accordance with *subsection (8)* the Board shall, for the purposes of appointing the first person to be the Director General immediately after the establishment day, appoint that person to be the Director General.

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Attendance by  
Director General at  
Dáil Éireann  
committee.

**14.**—(1) The Director General shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to the Committee on—

- (a) the regularity and propriety of the transaction recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Foundation is required by or under this Act to prepare,
- (b) the economy and efficiency of the Foundation in the case of its resources,
- (c) the systems, procedures and practices employed by the Foundation in the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Foundation 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.

(2) In the performance of his or her duties under this section the Director General shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(3) From time to time, and whenever so requested, the Director General shall account for the performance by the Foundation of its functions to a committee of one or both Houses of the Oireachtas and the Foundation shall have regard to any recommendations of such committee where the recommendations concern the functions of the Foundation.

Committees.

**15.**—(1) The Board may establish committees to assist and advise it in relation to the performance of any of its functions.

(2) The Board may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently exercised or performed by a committee.

(3) The Board shall decide the terms of reference for any committee and may regulate the procedure of any such committee.

(4) The members of a committee shall be appointed by the Board.

(5) A committee shall consist of such number of members as the Board thinks proper.

(6) A committee may include persons who are not members of the Board or staff of the Foundation.

(7) A member of a committee who fails to perform his or her functions may be removed at any time for stated reasons by the Board.

(8) The Board may at any time dissolve a committee.

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(9) The Board may appoint a person to be chairperson of a committee. Pr.2 S.15

(10) The acts of a committee shall be subject to confirmation by the Board save where the Board dispenses with the necessity for such confirmation.

(11) There shall be paid out of the income of the Foundation to members of a committee such allowances for expenses incurred by them in the discharge of their functions as the Board may determine with the consent of the Minister and the Minister for Finance.

(12) In this section “a committee” means a committee of the Foundation established under this section.

**16.—**(1) Where the Director General, a member of the Board, a member of the staff of the Foundation, a member of a committee established under *section 15*, or a consultant, adviser or other person engaged by the Foundation, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Board, or a committee established under this Act, he or she shall— Disclosure of interests.

- (a) disclose to the Board or committee, as the case may be, the nature of his or her interest in advance of any consideration of the matter,
- (b) neither influence nor seek to influence a decision in relation to the matter,
- (c) take no part in any consideration of the matter,
- (d) if he or she is the Director General, a member of the Board, the staff of the Foundation or a member of a committee established under *section 15*, withdraw from the meeting for so long as the matter is being discussed or considered and shall not vote or otherwise act as such Director General or member in relation to the matter.

(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—

- (a) he or she or any connected relative or nominee of his or hers or any connected relative is a member 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 relative 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 relative is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or
- (d) any connected relative has a beneficial interest in, or material to, such a matter.

(3) For the purposes of this section a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of that person or of any company or body or

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person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence that 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.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person to whom this section applies, would be a failure by him or her to comply with the requirements of *subsection (1)*, that question shall be determined by the Board and particulars of the determination by the Board shall be recorded in the minutes of the meeting concerned.

(5) Where a disclosure is made to the Board or a committee pursuant to *subsection (1)*, particulars of the disclosure shall be recorded in the minutes of the meeting concerned, and for so long as the matter to which the disclosure relates is being dealt with by the meeting, the person by whom the disclosure is made shall not be counted in the quorum for the meeting.

(6) Where a person referred to in this section fails to make a disclosure in accordance with this section, the Board shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(7) In this section “connected relative” means, in relation to a person to whom this section applies, the parent, spouse, partner, brother, sister or child of that person.

Disclosure of information.

**17.—(1)** Save as otherwise provided by law and *subsection (3)*, a person shall not, without the consent of the Board, disclose any confidential information obtained by him or her while performing (or as a result of having performed) duties as—

- (a) a member of the Board,
- (b) the Director General,
- (c) a member of the staff of the Foundation,
- (d) a member of a committee established under *section 15*, or
- (e) an adviser or consultant to the Foundation or an employee of such person whilst performing duties relating to such advice or consultation.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,000.

(3) Nothing in *subsection (1)* shall prevent disclosure of information in a report made to the Foundation or on behalf of the Foundation to the Minister.

(4) In this section “confidential information” includes information that is expressed by the Foundation or a committee to be confidential either as regard particular information or as regards information of a particular class or description.

Seal of Foundation.

**18.—(1)** The Foundation shall, as soon as may be after its establishment, provide itself with a seal.

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(2) The seal of the Foundation shall be authenticated by the signature of— Pr.2 S.18

- (a) the Chairperson of the Board, or
- (b) (i) a member of the Board, or
- (ii) an officer of the Foundation,

authorised by the Board to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Foundation and every document purporting to be an instrument made by the Foundation and to be sealed with the seal of the Foundation (purporting to be authenticated in accordance with *subsection (2)*) shall be received in evidence 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 by an individual, would not require to be under seal may be entered into or executed on behalf of the Foundation by a member of the staff of the Foundation or a person generally or specially authorised by the Board for that purpose.

**19.—**(1) The Foundation may appoint such number of persons to be members of the staff of the Foundation as it may determine, with the consent of the Minister given with the concurrence of the Minister for Finance. Staff of Foundation.

(2) The staff of the Foundation shall be paid such remuneration and allowances and shall hold their employment on such terms and conditions as the Board shall, with the consent of the Minister given with the concurrence of the Minister for Finance, determine.

(3) Where a member of the staff of the Foundation—

- (a) is nominated as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or a representative in the European Parliament, or
- (c) is regarded, pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy,

he or she shall thereupon stand seconded from his or her employment with the Foundation and shall not be paid by, or be entitled to receive from the Foundation, remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected (as the case may be), and ending when he or she ceases to be a member of that House or a representative in that Parliament.

(4) 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 shall, while he or she is so entitled or is such a representative, be disqualified from becoming a member of the staff of the Foundation.

(5) This section shall come into operation on such day as the Minister may appoint by order.



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Secondment of staff  
of Forfás.

**20.—(1)** A person seconded from Forfás under paragraph 2(2) of the Second Schedule to the Act of 1993 (as amended by *section 35*) to the Foundation who is on such secondment immediately before the commencement of this section, shall cease to be a member of the staff of Forfás and shall become a member of the staff of the Foundation.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff associations concerned, a person referred to in this section, shall not while in the service of the Foundation, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (including those relating to tenure of office) than the scale of pay to which he or she was entitled and the terms and conditions of service (including conditions relating to tenure of office) to which he or she was subject immediately before becoming a member of the staff of the Foundation.

(3) Superannuation benefits granted under schemes under *section 21* to persons who, immediately before the commencement of this section, were members of the staff of Forfás seconded to the Foundation and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled immediately before that day.

(4) This section shall come into operation on such day as the Minister may appoint by order.

Superannuation.

**21.—(1)** The Foundation may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the Foundation, including the Director General, as it may think fit.

(2) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.

(3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(4) A scheme submitted by the Foundation under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Foundation in accordance with its terms.

(5) No superannuation benefit shall be granted by the Foundation nor shall any other arrangements be entered into by the Foundation for the provision of such a benefit to or in respect of a member of the staff of the Foundation including the Director General otherwise than in accordance with a scheme under this section or with the consent of the Minister and the Minister for Finance.

(6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.



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(7) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. Pr.2 S.21

(8) This section shall come into operation on such day as the Minister may appoint by order.

**22.**—The Foundation may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions and any fees payable by the Foundation to a consultant or adviser engaged under this section shall be paid by the Foundation out of moneys at its disposal. Consultants and advisers.

**23.**—(1) As soon as practicable and after the establishment day, and thereafter within 6 months before each fifth anniversary of the establishment day, the Foundation shall prepare and submit to the Minister a plan (in this section referred to as a “strategic plan”) for the ensuing 5 year period. Strategic plans and work programmes.

(2) A strategic plan shall—

- (a) comprise the key objectives, outputs and related strategies, including use of resources, of the Foundation,
- (b) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister, and
- (c) have regard to the need to ensure the most beneficial, effective and efficient use of resources of the Foundation.

(3) The Minister shall, as soon as practicable after a strategic plan has been submitted to him or her under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.

(4) The Foundation shall prepare and submit to the Minister by the end of each year a programme of the activities it proposes to carry out in the following year.

**24.**—(1) The Foundation shall submit, in such form as the Minister may direct, an annual report of its activities after the end of the financial year to which it refers and the Minister shall cause copies of the report to be laid before each House of the Oireachtas not later than 6 months after the end of that financial year and the Foundation shall specifically comment in every such annual report on the oriented basic research being supported by the Foundation and how such research relates to its functions. Annual reports and accounts.

(2) The Foundation shall keep, in such form as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of money received and expended by it and, in particular, shall keep in such form as aforesaid all special accounts as the Minister may from time to time direct.

(3) The accounts of the Foundation for each financial year shall be prepared by the Director General, approved by the Board and submitted to the Comptroller and Auditor General for audit as soon

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as practicable, but not later than 4 months after the end of the financial year to which they relate.

(4) A copy of the accounts referred to in *subsection (3)* and the report of the Comptroller and Auditor General on those accounts shall, as soon as is practicable, be presented to the Minister who shall cause copies of the accounts and the report to be laid before each House of the Oireachtas.

Information to Minister and Forfás.

**25.—**(1) The Foundation shall supply the Minister with such information regarding its activities as the Minister may, from time to time, require.

(2) The Foundation and any committee established under *section 15* shall provide Forfás with such information as Forfás may, from time to time, require for the purposes of its functions.

Premises of Foundation.

**26.—**(1) The Foundation may for the purposes of providing premises necessary for the due performance of its objectives and functions—

(a) purchase or take on lease any land, offices, laboratories or premises, and

(b) build, equip and maintain offices, laboratories and premises.

(2) The Foundation may sell or lease any land, offices, laboratories or premises held by it which are no longer required for the due performance of its functions.

(3) Where the Foundation is of the opinion that it is necessary to establish a research laboratory that is independent of any institute, college or university for the purposes of carrying out its functions under this Act the Foundation shall notify the Minister as soon as practicable and the Minister shall as soon as practicable consult with the Government in respect of the opinion of the Foundation.

Transfer of rights and liabilities to Foundation.

**27.—**(1) The following shall be and are transferred to the Foundation on the establishment day—

(a) all property and rights held or enjoyed immediately before that day by the committee of Forfás established under section 10 of the Act of 1993 (as amended by section 46 of the Act of 1998) referred to pursuant to such establishment as Science Foundation Ireland, and

(b) all liabilities incurred by the committee of Forfás referred to in *paragraph (a)* before that day,

and accordingly, without any further conveyance, transfer or assignment—

(i) the said property, real and personal, shall on that day vest in the Foundation for all the estate, term or interest for which immediately before that day, it was so vested in the committee referred to in *paragraph (a)* but subject to all trusts and equities affecting the property subsisting and capable of being performed,

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- (ii) the said rights shall, as and from that day, vest in the Foundation, and Pr.2 S.27
- (iii) the said liabilities shall, as and from that day, be liabilities of the Foundation.

(2) All moneys, stocks, shares and securities transferred to the Foundation by this section that, on the establishment day, are standing in the name of the committee of Forfás referred to in *subsection (1)* or of any trustee or agent of such committee shall, on the request of the Foundation, be transferred into the name of the Foundation.

(3) Every right and liability transferred to the Foundation by this section may, on or after the establishment day, be sued on, recovered or enforced by or against the Foundation in its own name and it shall not be necessary for the Foundation to give notice to the person whose right or liability is transferred by this section of the transfer.

(4) Section 12 of the Finance Act 1895 shall not apply to the vesting in the Foundation of any property or right transferred by or under this section.

### PART 3

#### AMENDMENT OF INDUSTRIAL DEVELOPMENT ACTS 1986 TO 1998 AND SHANNON FREE AIRPORT DEVELOPMENT COMPANY ACTS 1959 TO 1998

**28.**—Section 21 of the Act of 1986 is amended by deleting subsection (5) of that section. Amendment of section 21 of Act of 1986.

**29.**—The Act of 1986 is amended by substituting the following for section 25: Amendment of section 25 of Act of 1986.

“Employment grants. 25.—(1) The Authority may make a grant on such terms and conditions as it thinks proper in respect of a person employed in an industrial undertaking which conforms to the criteria set out in subsections (3) and (4) of section 21.

(2) Without the prior permission of the Government, the total amount of money granted to a particular undertaking under this section shall not exceed in the aggregate the higher of—

- (a) €5,000,000, or
- (b) €5,000,000 in excess of the aggregate amount of such expenditure for which the prior permission of the Government has previously been obtained.”.

**30.**—Section 28 of the Act of 1986 is amended by substituting the following for subsection (4) (as amended by the Act of 1998): Amendment of section 28 of Act of 1986.

“(4) Without the prior permission of the Government, the total amount of money granted to a particular undertaking under this section shall not exceed in the aggregate the higher of—

- (a) €5,000,000, or

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- (b) €5,000,000 in excess of the aggregate amount of such expenditure for which the prior permission of the Government has previously been obtained.”.

Amendment of section 29 of Act of 1986.

**31.**—The Act of 1986 is amended by substituting the following for section 29 (as amended by the Act of 1998):

“Research grants.

29.—(1) Following consultation with such bodies as may be specified by the Minister from time to time, the Authority may make a grant (in this section referred to as a research grant), subject to subsection (5), on such terms and conditions as it thinks proper towards the cost of research and development to which this section applies.

(2) This section applies to research and development which—

(a) has as its primary object the promotion or development of new or improved industrial processes, methods or products, and, in particular, such processes, methods or products as are likely either to involve the use or 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, and

(b) is carried out wholly or mainly in the State and wholly or mainly sponsored by one or more than one industrial undertaking in the State.

(3) For the purpose of a research grant the Authority may consult such adviser, consultant, institute or other organisation or person as it considers proper.

(4) (a) Subject to paragraph (b), the amount of a research grant shall not exceed 50 per cent of the approved costs of the research and development concerned or €2,500,000 whichever is the smaller sum.

(b) The amount of a research grant may, with the approval of the Government in a particular case, exceed €2,500,000 by such sum as the Government shall in that case specify, provided that the percentage limit specified in paragraph (a) is not exceeded.

(c) In this section ‘approved costs’ means in relation to a particular research grant, such expenditure by the industrial undertaking or undertakings concerned as the Authority is satisfied has been or will be incurred for the purpose of promoting the

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research and development concerned and Pr.3 S.31  
has been or will be expended on—

- (i) the provision of sites or premises (including the acquisition of land), the construction and adaptation of buildings, and the provision of services and other works;
- (ii) the provision of plant, machinery, equipment and materials;
- (iii) the payment of fees or other remuneration to technical advisers consulted in connection with the research and development;
- (iv) the salaries and wages paid to and the travel and subsistence expenses of persons engaged on the research and development or in identifying product or process development prospects within the industrial undertaking; and
- (v) overhead charges associated with the research and development concerned.

(5) The Authority may, in the case of small industrial undertakings as defined from time to time by the Minister, make payment of up to one-third of a research grant prior to the approved costs being incurred on condition that the amount so paid shall be repaid to the Authority if the research or development project concerned has not been carried out to the satisfaction of the Authority.

(6) The Authority shall not make a payment under subsection (5) unless it is satisfied that the industrial undertaking has available to it sufficient assets to cover its liability under that subsection.

(7) The Authority shall not, without the prior permission of the Government, give in respect of a particular industrial undertaking, research grants exceeding in the aggregate the higher of—

- (a) €2,500,000; or
- (b) €2,500,000 in excess of the aggregate amount of research grants for which the permission of the Government has previously been obtained by the Authority.”.

**32.**—Section 31 of the Act of 1986 is amended by substituting the following for subsection (4) (as amended by the Act of 1998):

Amendment of section 31 of Act of 1986.

“(4) Without the prior permission of the Government, the total amount of money expended in the purchase or taking of shares in a particular industrial undertaking under this section shall not exceed in the aggregate the higher of—

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- (a) €5,000,000; or
- (b) €5,000,000 in excess of the aggregate amount of such expenditure for which the prior permission of the Government has previously been obtained.”.

Amendment of section 34 of Act of 1986.

**33.**—The Act of 1986 is amended by substituting the following for section 34:

“Aggregate limit on investment aid.

34.—Without the prior permission of the Government, the total amount of money granted under sections 21 (as amended by the *Industrial Development (Science Foundation Ireland) Act 2003*), 22 or 25 (inserted by the *Industrial Development (Science Foundation Ireland) Act 2003*) to a particular undertaking or expended in the purchase or taking of shares in the same industrial undertaking under section 31 (as amended by the *Industrial Development (Science Foundation Ireland) Act 2003*) shall not exceed in the aggregate the higher of—

- (a) €10,000,000; or
- (b) €10,000,000 in excess of the aggregate amount of such grants for which the prior permission of the Government has previously been obtained.”.

Amendment of Shannon Free Airport Development Company (Amendment) Act 1986.

**34.**—The Shannon Free Airport Development Company (Amendment) Act 1986 is amended—

- (a) in section 2, by substituting “€350,000,000” for “£200,000,000” (inserted by the Act of 1998), and
- (b) in section 3, by substituting “€400,000,000” for “£250,000,000” (inserted by the Act of 1998).

Amendment of Act of 1993.

**35.**—The Act of 1993 is amended—

- (a) in section 6(1) by substituting the following for paragraph (b) (as amended by the Act of 1998):

“(b) to advise on the development and co-ordination of policy for Enterprise Ireland, IDA and Science Foundation Ireland and such other bodies (established by or under statute) as the Minister may by order designate,”,

- (b) in section 6(1) by substituting the following for paragraph (e) (as amended by the Act of 1998):

“(e) to advise and co-ordinate Enterprise Ireland, IDA and Science Foundation Ireland in relation to their functions.”,

- (c) in section 9(1) (as amended by the Act of 1998) by inserting “, IDA or Science Foundation Ireland” for “or IDA”,

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(d) in section 9(3) (as amended by the Act of 1998) by substituting “Forfás, Enterprise Ireland, IDA and Science Foundation Ireland” for “Forfás, Enterprise Ireland and IDA”, Pr.3 S.35

(e) by substituting the following for section 11:

“Grants. 11.—(1) There may be paid by the Minister to Forfás, IDA, Enterprise Ireland and Science Foundation Ireland, out of moneys provided by the Oireachtas, grants of such amounts as the Minister, with the consent of the Minister for Finance, may sanction for—

(a) the administrative and general expenses of Forfás, IDA, Enterprise Ireland and Science Foundation Ireland, and

(b) the obligations and liabilities of Forfás, IDA, Enterprise Ireland and Science Foundation Ireland.

(2) The aggregate amount of grants made by the Minister to Forfás, and the agencies under subsection (1)(b) (other than grants to which section 14(3) of the Act of 1986 applies) shall not exceed €3,400,000,000.”

(f) by substituting the following for section 12:

“Industrial incentives. 12.—(1) Without the prior permission of the Government, the total amount of money granted to a particular industrial undertaking under sections 21 (as amended by the *Industrial Development (Science Foundation Ireland) Act 2003*) and 22 of the Act of 1986 shall not exceed in the aggregate the higher of—

(a) €5,000,000, or

(b) €5,000,000 in excess of the aggregate amount of such grants for which the prior permission of the Government has previously been obtained.”

(g) in the First Schedule by—

(i) substituting the following for paragraph 2(2) (as amended by the Act of 1998):

“(2) The Board of Forfás shall consist of not more than 13 members and the Board of IDA shall consist of not more than 12 members.”

and

(ii) substituting the following for paragraph 3(1) (as amended by the Act of 1998):

“(1) On every anniversary of the establishment day, 2 of the members of the Board shall retire from office.”

and

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(h) in paragraph 2(2) (as amended by the Act of 1998) of the Second Schedule by substituting “IDA, Enterprise Ireland, National Standards Authority of Ireland or Science Foundation Ireland” for “IDA, Enterprise Ireland or the National Standards Authority of Ireland”.

Amendment of section 10 of Act of 1995.

**36.**—Section 10 (as amended by the Finance Act 1999) of the Act of 1995 is amended in paragraph (3)(a) by substituting “€500,000,000” for “£200,000,000”.

Amendment of Act of 1998.

**37.**—Section 52 of the Act of 1998 is amended by substituting “IDA, NSAI or Science Foundation Ireland” for “IDA or the NSAI”.



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