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*Number 16 of 2007*

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**NATIONAL DEVELOPMENT FINANCE AGENCY  
(AMENDMENT) ACT 2007**

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ARRANGEMENT OF SECTIONS

Section

1. Definition.
  2. Amendment of section 1 (interpretation) of Principal Act.
  3. Amendment of section 3 (functions of Agency) of Principal Act.
  4. Code of conduct.
  5. Amendment of section 4 (provision of advice to State authorities) of Principal Act.
  6. Amendments relating to Board members.
  7. Amendment of section 15 (seal of Agency) of Principal Act.
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  9. Prescribing of State authority, etc.
  10. Expenses of Agency.
  11. Schedule (State authorities) to Principal Act.
  12. Amendment of State Authorities (Public Private Partnership Arrangements) Act 2002.
  13. Short title, collective citation and construction.
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[No. 16.]      *National Development Finance Agency (Amendment) Act 2007.*      [2007.]

ACTS REFERRED TO

Harbours Acts 1946 to 1976	
National Development Finance Agency Act 2002	2002, No. 29
Regional Technical Colleges Act 1992	1992, No. 16
State Authorities (Public Private Partnership Arrangements) Act 2002	2002, No. 1
Universities Act 1997	1997, No. 24
Vocational Education Act 1930	1930, No. 29



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Number 16 of 2007

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**NATIONAL DEVELOPMENT FINANCE AGENCY  
(AMENDMENT) ACT 2007**

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AN ACT TO AMEND THE NATIONAL DEVELOPMENT FINANCE AGENCY ACT 2002 BY PROVIDING FOR ADDITIONAL FUNCTIONS OF THE NATIONAL DEVELOPMENT FINANCE AGENCY AND TO PROVIDE FOR CONNECTED MATTERS.

[10th April, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

- 1.—In this Act “Principal Act” means National Development Finance Agency Act 2002. Definition.
- 2.—Section 1 of the Principal Act is amended— Amendment of section 1 (interpretation) of Principal Act.
- (a) by inserting “arrangement” after “public private partnership” in the definition of “appropriate Minister” in subsection (1), and
- (b) in the definition of “State authority” by inserting “or prescribed by order under section 22 for the purposes of paragraph 17 of the Schedule” after “the Schedule”.
- 3.—Section 3 of the Principal Act is amended in subsection (1)— Amendment of section 3 (functions of Agency) of Principal Act.
- (a) by deleting “and” where it last occurs in paragraph (c) and by substituting “public investment projects,” for “public investment projects.” in paragraph (d), and
- (b) by inserting the following after paragraph (d):
- “(e) to enter into a public private partnership arrangement with a view to transferring the rights and obligations under such an arrangement to any State authority, and
- (f) to act as agent for any State authority in connection with the entry or proposed entry by that State authority into a public private partnership arrangement.”.

[No. 16.] *National Development Finance Agency (Amendment) Act 2007.* [2007.]

Code of conduct. **4.**—The Principal Act is amended by inserting the following after section 3:

“3A.—(1) The Agency shall draw up, and may from time to time revise, a code of conduct that is based on best practices so as to ensure good corporate governance in the performance of the functions of the Agency under this Act in relation to public private partnership arrangements.

(2) Where a code of conduct has been drawn up or revised under subsection (1), it shall be submitted by the Agency to the Minister for approval.”.

Amendment of section 4 (provision of advice to State authorities) of Principal Act. **5.**—Section 4 of the Principal Act is amended in subsection (1) by inserting “, or exercising functions under paragraph (e) or (f) of section 3(1) of,” after “providing advice under”.

Amendments relating to Board members.

**6.**—The Principal Act is amended—

(a) by substituting “7 ordinary members” for “4 ordinary members” in section 12(2), and

(b) by substituting the following for subsection (3) in section 14:

“(3) The quorum for a meeting of the Board shall be 4.”.

Amendment of section 15 (seal of Agency) of Principal Act.

**7.**—Section 15 of the Principal Act is amended by substituting the following for subsection (4):

“(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into and executed by 2 persons, each of whom is—

(a) the Chairperson of the Board,

(b) an ordinary member of the Board, or

(c) an officer or member of the staff of the National Treasury Management Agency authorised in writing by the Board for that purpose.”.

Amendment of section 18 (prohibition on unauthorised disclosure of confidential information) of Principal Act.

**8.**—Section 18 of the Principal Act is amended—

(a) in subsection (3) by inserting “, any appropriate Minister” after “Chief Executive Officer”, and

(b) in subsection (4)(a) by inserting “, any appropriate Minister” after “the Board”.

9.—The Principal Act is amended by substituting the following for section 22: Prescribing of State authority, etc.

“22.—(1) Where the Minister, following consultation with any appropriate Minister, is of the opinion that—

- (a) having regard to the purposes of this Act, the functions of the Agency and the functions of the public authority concerned, it would be appropriate for a public authority, not being a State authority, to be so prescribed by order under this section, then he or she may, by order, prescribe the public authority for the purposes of paragraph 17 of the Schedule, or
- (b) having regard to the amalgamation, dissolution or change of name of a State authority, a reference to a State authority specified in the Schedule ought to cease to have effect, then he or she may, by order, declare that it shall cease to have effect and, where appropriate, prescribe a public authority under paragraph (a) in lieu of such State authority.

(2) Where an order is proposed to be made under this section, a draft of it shall be laid before each House of the Oireachtas.

(3) The order shall not be made if a resolution disapproving of the draft is passed by either such House within the next subsequent 21 days on which it has sat after the draft is laid before it.

(4) In this section ‘public authority’ means—

- (a) a person or body which at any time stood specified in the Schedule or was prescribed by order under this section for the purposes of paragraph 17 of the Schedule,
- (b) a board, authority or other body (other than a company) established by or under statute,
- (c) a company in which all the shares are held—
  - (i) by or on behalf of a Minister of the Government, or
  - (ii) by directors appointed by a Minister of the Government,

or

- (d) a company in which all the shares are held by a board, authority or body referred to in paragraph (b) or by a company referred to in paragraph (c).”.

Expenses of Agency.

**10.**—The Principal Act is amended by substituting the following for section 26:

“26.—(1) Subject to subsections (2), (3) and (4), the expenses incurred by the Agency in the performance of its functions shall be charged on and paid out of the Central Fund or the growing produce thereof.

(2) The expenses incurred by the Agency in the performance of functions under paragraphs (b) and (d) of section 3(1) (including any payments in respect of interest and principal) shall be charged on and paid out of repayments (including repayments in respect of interest and principal), to the extent of the repayment concerned, to the Agency on loans advanced by it or out of any surplus accruing to the Agency.

(3) (a) The expenses incurred by the Agency in the performance of functions under paragraphs (a), (c), (e) and (f) of section 3(1) in relation to a specific project or specific arrangement referred to in those paragraphs shall, as soon as practicable after they are paid by the Agency, be repaid to the Agency by the appropriate State authority or State authorities concerned with that project or arrangement.

(b) The Agency shall, as soon as practicable after receiving a repayment for the purposes of paragraph (a), repay it to the Exchequer.

(4) In this section ‘expenses’ includes remuneration and allowances for expenses payable under section 12(5) to Board members and any fee payable to a consultant or adviser or other service provider engaged by the Agency under this Act.”.

Schedule (State authorities) to Principal Act.

**11.**—The Principal Act is amended by substituting the following for the Schedule to it:

#### “SCHEDULE

#### STATE AUTHORITIES

1. A Minister of the Government.
2. A local authority.
3. The Commissioners of Public Works in Ireland.
4. The National Roads Authority.
5. The Health Service Executive.
6. A university within the meaning of the Universities Act 1997, other than Trinity College and the University of Dublin.
7. The Dublin Institute of Technology.
8. A college within the meaning of section 2 of the Regional Technical Colleges Act 1992.

9. A vocational education committee within the meaning of section 7 of the Vocational Education Act 1930.
10. Courts Service.
11. A harbour authority within the meaning of the Harbours Acts 1946 to 1976.
12. Bus Átha Cliath – Dublin Bus.
13. Bus Éireann – Irish Bus.
14. Córas Iompair Éireann.
15. The Railway Procurement Agency.
16. Digital Hub Development Agency.
17. Any public authority standing prescribed by order under section 22.”.

**12.**—The State Authorities (Public Private Partnership Arrangements) Act 2002 is amended by inserting “The National Development Finance Agency.” at the end of the Schedule.

Amendment of State Authorities (Public Private Partnership Arrangements) Act 2002.

**13.**—(1) This Act may be cited as the National Development Finance Agency (Amendment) Act 2007.

Short title, collective citation and construction.

(2) This Act and the National Development Finance Agency Act 2002 may be cited together as the National Development Finance Agency Acts 2002 and 2007 and shall be construed together as one.