

# **Management Statement and Financial Memorandum**

## **Strategic Investment Board Limited**

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Note: This document was produced jointly by SIB and the Office of the First Minister and deputy First Minister (OFMDFM). The text (unaltered) in this copy is in the SIB house style (necessary cross-reference changes have been made). The original signed copy of the document is held by OFMDFM.





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# 1 Introduction

## 1.1 Definitions

In this Memorandum:

- “the SIB” means the Strategic Investment Board Limited
- “the Board” means the SIB’s Board
- “the Chief Executive” means the Chief Executive of the SIB
- “the Chairman” means the Chairman of the SIB’s Board
- “the Department” or “OFMDFM” means Office of the First Minister and Deputy First Minister
- “GANI” means Government Accounting Northern Ireland
- “DFP” means the Department of Finance and Personnel
- “C&AG” means Comptroller and Auditor General

## 1.2 This document

This management statement and its associated financial memorandum have been drawn up by the Office of the First Minister and deputy First Minister (OFMDFM) in consultation with the Strategic Investment Board (SIB), Stormont Castle, Stormont Estate, Belfast BT4 3TT, and with the approval of DFP. During the suspension of the Assembly all references to the Assembly should be taken to mean the UK parliament at Westminster and all references to “Ministers” should be taken to mean the relevant direct rule Minister with responsibility for OFMDFM.

Subject to the legislation noted below and the SIB’s memorandum and articles of association the management statement sets out the broad framework within which the SIB will operate, in particular:

- the SIB’s overall aim, objectives and targets in support of OFMDFM’s wider strategic aims and current Public Service Agreement (PSA);
- the rules and guidelines relevant to the exercise of the SIB’s functions, duties and powers;
- the conditions under which any public funds are paid to the SIB; and
- how the SIB is to be held to account for its performance.

However, the management statement and financial memorandum do not convey any legal powers or responsibilities.

The associated financial memorandum sets out in greater detail certain aspects of the financial provisions which the SIB is required to observe.

The combined document will be reviewed by OFMDFM one year after its introduction and at least every five years thereafter as part of the comprehensive review of the SIB (Section 7 below). Revisions will be subject to approval by DFP.

The SIB or OFMDFM may propose amendments to this document at any time. OFMDFM will determine what changes, if any, are to be incorporated in the document, having consulted with SIB and DFP. In the event that the Board of SIB disagrees with the changes made by OFMDFM, they will take such action as they deem appropriate. Legislative changes will take precedence over any part of the document. Significant variations to this document will be cleared with the Public Service Reform Unit (PSRU) and/or DFP. The definition of 'significant' will be determined by OFMDFM in consultation with DFP and SIB.

The combined document is to be signed and dated by OFMDFM and the SIB.

Any question regarding the interpretation of the document shall be resolved by OFMDFM after consultation with the SIB and, as necessary, with DFP and PSRU.

Copies of this document and any subsequent substantive amendments shall be placed in the Library of the NI Assembly. Copies shall also be made available to members of the public on the SIB's website.

### **1.3 Founding legislation; status**

The SIB is established under the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003 as a company limited by guarantee. The Company's full designated powers took effect from 1 April 2003.

### **1.4 The functions, duties and powers of the SIB**

The functions, duties and powers of the SIB are set out in the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003 (copy attached at Annex B) and the SIB's Memorandum and Articles of Association (copy attached at Annex C).

### **1.5 Classification**

For financial and policy/administrative purposes the SIB is classified as an executive Non-Departmental Public Body.

For national accounts purposes the SIB is classified to the central government sector.

References to the SIB include all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. If such a subsidiary or joint venture is created, there shall be a document setting out the arrangements between it and the SIB (paragraphs 67–68 of the Financial Memorandum refer).

## 2 Aim, Objectives and Targets

### 2.1 Overall aim

Within the founding legislation the Minister has defined the overall aim for the SIB as follows:

To make provision for, and in connection with, the exercise by a designated company of strategic investment functions in relation to:

- a. the Executive (when section 1 of the Northern Ireland Act 2000 (c.1) (suspension of devolved government) is in force references to the Executive will be construed as references to the Minister); and
- b. bodies carrying out major investment projects.

In relation to the Executive, “strategic investment functions” means advising the Executive in relation to the formulation and implementation of its programme of major investment projects.

In relation to bodies carrying out major investment projects, “strategic investment functions” means:

- a. advising those bodies in relation to the carrying out of such projects;
- b. assisting those bodies in relation to the carrying out of such projects, including providing research, consultancy, advisory and other services and general assistance; and
- c. participating, by agreement with those bodies, in the carrying out of such projects.

In particular, strategic investment functions (in relation to the Executive and bodies carrying out major investment projects) include advising on:

- a. the planning and prioritisation of programmes and projects;
- b. the funding of projects, including borrowings for that purpose; and
- c. the general implementation of projects (including, in the case of projects of statutory bodies, arrangements for procuring implementation wholly or partly by persons other than statutory bodies).

References to “major investment projects” are to projects which:

- a. are of major strategic importance to Northern Ireland (or a part thereof); and
- b. involve substantial investment (whether or not provided out of public money).

### 2.2 Objectives and key targets

OFMDFM’s main aims and objectives are reflected in the commitments and targets set out in the PSA and this provides a framework within which the objectives and targets for the SIB are set. The SIB’s objectives and key targets are agreed within the SIB’s corporate and business planning process (see Section 4 below), and shall be consistent with the Public Service Agreement (PSA).

The objectives, targets and performance measures for the SIB will be set out in its annual Business Plan (see Section 4.2) which shall be approved by OFMDFM and the SIB Board, and agreed with DFP. They will be incorporated into this document once they have been agreed.

## **3 Responsibilities and Accountability**

### **3.1 *The Departmental Ministers of OFMDFM***

The Departmental Ministers are accountable to the Northern Ireland Assembly for the activities and performance of the SIB. Their responsibilities include:

- in consultation with the Board, setting the SIB's strategic objectives and the policy and performance framework within which the SIB will operate;
- keeping the Northern Ireland Assembly informed about the SIB's performance; and
- setting the amount of grant-in-aid, subject to approval of the relevant Budget Bill provided by the NI Assembly.

### **3.2 *The Accounting Officer and Additional Accounting Officer of OFMDFM***

The Permanent Secretary of OFMDFM as the Accounting Officer, is responsible for the overall organisation, management and staffing of the sponsor Department and for ensuring that there is a high standard of financial management in the Department as a whole. The Second Permanent Secretary as the Additional Accounting Officer is accountable to the NI Assembly for the issue of any grant-in-aid to the SIB. The Additional Accounting Officer designates the Chief Executive of the SIB as the SIB's Accounting Officer, and may withdraw the accounting officer designation if he/she believes that the incumbent is no longer suitable for the role.

In particular, the Additional Accounting Officer of OFMDFM shall ensure that:

- the SIB's strategic aim(s) and objectives support OFMDFM's wider strategic aims and current PSA;
- the financial and other management controls applied by the Department to the SIB are appropriate and sufficient to safeguard public funds and for ensuring that the SIB's compliance with those controls is effectively monitored ("public funds" include not only any funds granted to the SIB by the NI Assembly but also any other funds generated by approved activities or falling within the stewardship of the SIB); such monitoring will also be exercised through the SIB's Audit Committee;
- the internal controls applied by the SIB conform to the requirements of regularity, propriety and good financial management;
- any grant-in-aid to the SIB is within the ambit and the amount of the Request for Resources and that Assembly authority has been sought and given;
- staff terms and conditions are approved;

The responsibilities of a Departmental Accounting Officer are set out in more detail in DAO(DFP) 8/01.

### **3.3 The sponsoring Division in OFMDFM**

Within the Department, the Economic Policy Unit (EPU) is the sponsoring Division for the SIB. EPU, in consultation as necessary with OFMDFM's Additional Accounting Officer, is the primary source of advice to Ministers on the discharge of their responsibilities in respect of the SIB, and the primary point of contact for the SIB in dealing with the Department. EPU shall carry out its duties under a senior officer who shall have as one of their primary responsibilities the duty of overseeing the activities of the SIB.

EPU shall, in consultation with the Board, advise Ministers on:

- an appropriate framework of objectives and targets for the SIB in the light of the Department's wider strategic aims and current PSA;
- an appropriate budget for the SIB in the light of the Department's overall public expenditure priorities;
- how well the SIB is achieving its strategic objectives and whether it is delivering value for money.

In support of the Additional Accounting Officer, EPU shall, in consultation with the Board (where appropriate):

#### **3.3.1 On performance and risk management -**

- monitor the SIB's activities on a continuing basis through an adequate and timely flow of information from the SIB on performance, budgeting, control and risk management, including early sight of the SIB's Statement on Internal Control;
- address in a timely manner any significant problems arising in the SIB, whether financial or otherwise, making such interventions in the affairs of the SIB as the Department judges necessary;
- periodically carry out a risk assessment of the SIB's activities to inform the Department's oversight of the SIB, strengthen these arrangements if necessary, and amend the management statement accordingly. The risk assessment shall take into account the nature of the SIB's activities, the public monies at stake, the body's corporate governance arrangements, its financial performance, internal and external auditors' reports, the openness of communications between the body and the Department, and any other relevant matters;

#### **3.3.2 On communication with the SIB –**

- inform the SIB of relevant Government policy in a timely manner, advise on the interpretation of that policy, and issue specific guidance to the SIB as necessary;
- bring concerns about the activities of the SIB to the attention of the full Board, and require explanations and assurances from the Board that appropriate action has been taken.

### **3.4 The Chairman of the SIB**

The Chairman is appointed in accordance with the Memorandum and Articles of Association. The current Chairman was appointed by the Department for a period of one year. The Office of the Commissioner for Public Appointments for Northern Ireland (OCPANI) designated this as an “expert” post and consequently a targeted recruitment exercise was appropriate. An independent assessor was involved in the recruitment and selection process. Subsequent Chairpersons will be elected by the Board from amongst its members.

The Chairman is responsible to Ministers for ensuring that the SIB’s policies and actions are consistent with those of Ministers and that the SIB’s affairs are conducted with probity. The Chairman shares with other Board members the corporate responsibilities set out in Section 3.5 and in particular for ensuring that the SIB fulfils the aims and objectives set by Ministers.

The Chairman has a particular responsibility for assuring that there is effective strategic leadership on the following matters:

- formulating the Board’s strategy;
- encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout the SIB;
- ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the responsible Minister or sponsor Department; and
- representing the views of the Board to the general public; and
- providing an assessment of performance of individual Board members, on request, when they are being considered for re-appointment to the Board.

The Chairman shall also:

- ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice; and
- advise Ministers of the needs of the SIB when Board vacancies arise, with a view to ensuring a proper balance of professional and financial expertise.

The Chairman shall ensure that a Code of Practice for Board Members is in place based on the model Code of Practice for Board Members of Public Bodies produced by the Cabinet Office and circulated under cover of Dear PFO letter dated 11 March 1997 as amended by DAO/DFP 6/99. The Code shall commit the Chairman and other Board Members to the Nolan seven principles of public life, and shall include a requirement for a comprehensive and publicly available register of Board Members’ interests.

Communications between the Board and the Ministers of OFMDFM on operational matters shall normally be through the Chief Executive. Communications with Ministers on strategic matters relevant to the Board will normally be through the Chairman. The Chairman should ensure that other Board members are made aware of such communications.

### **3.5 The SIB Board**

Board members are appointed by the Department for a period of three years. OCPANI has designated these posts as “expert” and consequently a targeted recruitment exercise is appropriate. An independent assessor will be involved in the recruitment and selection process.

The Board has corporate responsibility for ensuring that the SIB fulfils the aims and objectives set out in legislation and set by the Minister and for promoting the efficient and effective use of staff and other resources by the SIB and that the SIB complies with any statutory or administrative requirements for the use of public funds. They should take account of the Code of Practice for Board Members of Public Bodies as outlined [under Section 3.4 above].

In pursuit of its wider corporate responsibilities, the Board shall:

- ensure that high standards of corporate governance are observed at all times;
- establish the overall strategic direction of the SIB within the policy and resources framework agreed with the responsible Minister;
- ensure that the Board operates within the limits of its statutory authority and any delegated authority agreed with OFMDFM, and in accordance with any other conditions relating to the use of public funds;
- ensure that, in reaching decisions, the Board had taken into account guidance issued by OFMDFM;
- appoint, with the Minister’s approval, a Chief Executive to the SIB and, in consultation with OFMDFM, set performance objectives and remuneration terms linked to these objectives for the Chief Executive which give due weight to the proper management and use of public monies;
- ensure that within the SIB a distinction is made between strategic planning and management, which are responsibilities of the Board, and day-to-day management issues, which have been delegated to the Chief Executive.
- ensure that Ministers are kept informed of any changes that are likely to impact on the strategic direction of the SIB or on the attainability of its targets, and determine the steps needed to deal with such changes;
- ensure that the Board receives and reviews regular financial information concerning the management of the SIB; is informed in a timely manner about any concerns about the activities of the SIB; and provides positive assurance to the Department that appropriate action has been taken on such concerns;

Individual Board members shall act in accordance with their wider responsibility as Members of the Board – namely, to:

- comply at all times with the Code of Practice for Board Members ([under Section 3.4 above]) that is adopted by the SIB and with the rules relating to the use of public funds and to conflicts of interest;
- act in good faith and in the best interests of the SIB;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and
- comply with the Board's rules on the acceptance of gifts and hospitality and of business appointments.

### **3.6 The Chief Executive's Role as Accounting Officer**

The Chief Executive of the SIB is designated as the SIB's Accounting Officer by the Additional Accounting Officer of OFMDFM, and his or her responsibilities are set out in accordance with DAO (DFP) 2/95 "The Responsibilities of an NDPB Accounting Officer".

As the SIB's Accounting Officer, the Chief Executive is personally responsible for safeguarding the public funds for which he has charge; for ensuring propriety and regularity in the handling of those public funds; and for the day-to-day operations and management of the SIB.

As Accounting Officer the Chief Executive shall exercise the following responsibilities, in particular:

#### **3.6.1 On planning and monitoring -**

- establish, in agreement with OFMDFM and the Board, the SIB's corporate and business plans in the light of OFMDFM's wider strategic aims and current PSA;
- inform OFMDFM of the SIB's progress in helping to achieve OFMDFM's policy objectives and in demonstrating how resources are being used to achieve those objectives;
- ensure that timely forecasts and monitoring information on performance and finance are provided to OFMDFM; that OFMDFM is notified promptly if overspends or under-spends are likely and that corrective action is taken; and that any significant problems, whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Department in a timely fashion;

#### **3.6.2 On advising the Board -**

- advise the Board on the discharge of its responsibilities as set out in this document, in the founding legislation, and in any other relevant instructions and guidance that may be issued from time to time;
- advise the Board on the SIB's performance compared with its aims and objectives;

- ensure that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed as far as this is practicable;
- take action as set out in paragraphs 14-18 of the SIB Accounting Officer Memorandum if the Board, or its Chairman, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration or efficiency or effectiveness;

### **3.6.3 On managing risk and resources -**

- ensure that a system of risk management is maintained to inform decisions on financial and operational planning and to assist in achieving objectives and targets;
- ensure that an effective system of programme and project management and contract management is maintained;
- ensure that all public funds made available to the SIB, including any approved income or other receipts, are used for the purpose intended by the NI Assembly, and that such monies, together with the SIB's assets, equipment and staff, are used economically, efficiently and effectively;
- ensure that adequate internal management and financial controls are maintained by the SIB, including effective measures against fraud and theft;
- maintain a comprehensive system of internal delegated authorities which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- ensure that effective personnel management policies are maintained;

### **3.6.4 On accounting for the SIB's activities -**

- sign the accounts and be responsible for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with the appropriate accounting standards and any directions issued by OFMDFM;
- sign a Statement of Accounting Officer's responsibilities, for inclusion in the annual report and accounts;
- sign a Statement on Internal Control regarding the SIB's system of internal control, for inclusion in the annual report and accounts;
- ensure that effective procedures for handling complaints about the SIB are established and made widely known within the SIB;
- act in accordance with the terms of this document and with the instructions and guidance in GANI and other instructions and guidance issued from time to time by the Department, the Treasury, the Cabinet Office

and DFP - in particular, DAO (DFP) 2/95 "*The Responsibilities of an NDPB Accounting Officer*" and the Treasury Document "*Regularity and Propriety*", both of which the Chief Executive shall receive on appointment. Section A-8 of the attached financial memorandum refers to other key guidance;

- give evidence, when summoned before the Public Accounts Committee on the use and stewardship of public funds by the SIB;
- ensure that an Equality Scheme is in place, reviewed and equality impact assessed as required by the Equality Commission and OFMDFM;
- ensure that New TSN is taken into account; and
- ensure that the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 are complied with.

### **3.7 The Chief Executive's Role as Consolidation Officer**

For the purposes of Whole of Government Accounts the Chief Executive of the SIB will normally be designated as the SIB's Consolidation Officer by DFP and will carry out such functions as may be necessary.

As the SIB's Consolidation Officer the Chief Executive shall be personally responsible for preparing the consolidation information that sets out the financial results and position of the SIB, for arranging for its audit and for sending the information and the audit report to the Principal Consolidation Officer nominated by DFP.

As Consolidation Officer, the Chief Executive shall comply with the requirements of the Consolidation Officer memorandum and shall, in particular:

- ensure that the NDPB has in place and maintains sets of accounting records that will provide the necessary information for the consolidation process;
- prepare the consolidation information (including the relevant accounting and disclosure requirements and all relevant consolidation adjustments) in accordance with the consolidation instructions and directions ["Dear Consolidation Officer" (DCO) and "Dear Consolidation Manager" (DCM) letters] issued by DFP on the form, manner and timetable for the delivery of such information.

### **3.8 Delegation of duties**

The Chief Executive may delegate the day-to-day administration of his/her Accounting Officer and Consolidation Officer responsibilities to other employees in the SIB. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

### **3.9 The Chief Executive's role as Principal Officer for Ombudsman cases**

The Chief Executive is the Principal Officer for handling cases involving the Assembly Ombudsman for Northern Ireland and the Northern Ireland Commissioner for Complaints. As Principal Officer he/she shall inform the Permanent

Secretary of OFMDFM of any complaints about the SIB accepted by the Ombudsman for investigation, and about the SIB's proposed response to any subsequent recommendations from the Ombudsman.

### **3.10 Relationships**

Relationships between the SIB and Ministers and OFMDFM are governed by the 'arm's length' principle, wherein the primary role of Ministers is to set the SIB's legal and financial framework. Within this framework it is the role of the SIB to determine its policy and activities in keeping with its statutory responsibilities and the requirements of Assembly policy. The sponsor Department has the right of access to carry out any examination of the internal financial control systems as may be required to enable the Department's Additional Accounting Officer to discharge his/her responsibilities in a proper manner.

## 4 Planning, Budgeting and Control

### 4.1 *The Corporate Plan*

Consistent with the timetable for public spending reviews, the SIB shall submit annually to OFMDFM a draft corporate plan covering three years ahead. The SIB shall have agreed with the Department the issues to be addressed in the plan and the timetable for its preparation. The SIB shall submit its first interim Corporate Plan by 31 March 2004.

The plan shall reflect the SIB's statutory duties and, within those duties, the priorities set from time to time by the Minister. In particular, the plan shall demonstrate how the SIB contributes to the achievement of the Department's Public Service Agreement targets.

The plan shall set out:

- the SIB's key objectives and associated key performance targets for the three forward years, and its strategy for achieving those objectives;
- a review of the SIB's performance in the preceding financial year and an estimate of performance in the current year;
- a forecast of income and expenditure, taking account of guidance on resource assumptions and policies provided by the Department at the beginning of the planning round. These forecasts shall represent the SIB's best estimate of its available income, including any grant or grant-in-aid and other funding for the SIB;
- any efficiency savings which OFMDFM may require of the SIB;
- alternative scenarios to take account of factors which may significantly affect the execution of the plan but which cannot be accurately forecast; and
- other matters as agreed between OFMDFM and the SIB.

The main elements of the plan - including the key performance targets – shall be agreed between OFMDFM and the SIB in the light of the Department's decisions on policy and resources taken in the context of the Government's wider public expenditure plans and decisions. It should also:

- set out the strategic context, the SIB's Vision and Strategic Objectives, Strategic Priorities, Objectives and Outcomes;
- identify those features which the SIB needs to take into account when determining how it can best meet its main aims and the needs of its customers;
- monitor and evaluate the SIB's policies (within the likely level of resources available) to achieve its aims and objectives;
- provide OFMDFM and the SIB with a view on the long-term direction and priorities of the SIB;
- provide clear understanding of the corporate strategy which the SIB is to follow and enable that strategy to be implemented within an agreed

policy and resources framework which leaves day-to-day responsibility for the management of the SIB with the Chief Executive and key staff; and

- provide a Financial Overview.

## **4.2 The Business Plan**

The first year of the corporate plan, amplified as necessary, shall form the Business Plan. Thus the Business Plan shall include key targets and milestones for the year immediately ahead, and shall be linked to budget information so that resources allocated to achieve specific objectives can readily be identified by OFMDFM. The SIB shall have agreed with the Department the issues to be addressed in the plan.

An interim Business Plan should be submitted to OFMDFM by 30 November 2003. The 2004/05 Business Plan should be submitted by 31 March 2004 and thereafter submitted annually by the end of December of the preceding financial year.

The corporate and business plans will be available to the public and on the internet.

## **4.3 Reporting Performance to the Department**

The SIB shall operate management information and accounting systems which enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in its agreed corporate and business plans.

The SIB's performance in helping to deliver Ministers' policies, including the achievement of key objectives, shall be reported to the Department on a three-monthly basis. Performance will be formally reviewed twice yearly by officials of the Department at meetings with the Chief Executive of the SIB. Monthly update meetings between officials and the Chief Executive will also take place, at least for the first year of the SIB's operation. Ministers shall meet the Board formally each year to discuss the SIB's performance, its current and future activities and any policy developments relevant to those activities.

The SIB shall take the initiative in informing OFMDFM of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budgets or objectives set out in the corporate or business plans.

The SIB's performance against key targets shall be reported in the SIB's annual report and accounts.

## **4.4 Budgeting Procedures**

The SIB's budgeting procedures are set out in the accompanying financial memorandum.

## **4.5 Audit Committee**

SIB shall set up an independent audit committee as a committee of its Board in accordance with the Cabinet Office's Guidance on Codes of Practice for Public

Bodies the details of which were notified to Departments in a PFO letter dated 11 March 1997.

#### **4.6 Internal Audit**

SIB shall establish and maintain arrangements for internal audit in accordance with Treasury's Government Internal Audit Standards issued by DFP on 29 March 2002, DAO (DFP) 3/02 and DAO (DFP) 25/02 Internal Audit Arrangements between a Sponsoring Department and its Non-Departmental Public Bodies (NDPBs) issued by DFP on 16 December 2002.

SIB shall consult with OFMDFM to ensure that the latter is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving the appointment in accordance with Government Internal Audit Standards (GIAS) 5.2.

SIB shall arrange for periodic quality reviews of its internal audit in accordance with the GIAS. OFMDFM shall consider whether it can rely on these reviews to provide assurance on the quality of internal audit. However, OFMDFM reserves a right of access to carry out independent reviews of internal audit in the SIB.

OFMDFM's Internal Audit Service shall also have a right of access to all documents prepared by the SIB's internal auditor, including where the service is contracted out. The audit strategy, periodic audit plans and annual audit report, including the SIB's Head of Internal Audit's opinion on risk management, control and governance shall be forwarded as soon as possible to the sponsoring team who shall consult the Head of Internal Audit as appropriate.

#### **4.7 Fraud**

SIB shall report immediately to OFMDFM all frauds (proven or suspected), including attempted fraud. OFMDFM shall then report the frauds immediately to DFP and the C&AG. In addition, the SIB shall forward to OFMDFM an annual fraud return, commissioned by DFP, on fraud and theft suffered by the SIB, agree with OFMDFM its internal audit's terms of reference, the audit committee's terms of reference and the SIB's Fraud Policy and Fraud Response Plan, and notify it of any changes to them.



## **5 External Accountability**

### **5.1 *The Annual Report and Accounts***

After the end of each financial year the SIB shall publish an annual report of its activities, together with its audited annual accounts. The report will also cover the activities of any corporate bodies under the control of the SIB. A draft of the report shall be submitted to the Department two weeks before the proposed publication date.

As a Company limited by guarantee, SIB is required to produce its accounts in accordance with UK GAAP in order to give a fair and true view. However, as an Executive NDPB SIB is also required to take cognisance of the DFP guidance “Executive Non-Departmental Public Bodies: Annual Reports and Accounts” where the accounting and disclosure requirements of this guidance goes further than those of UK GAAP. SIB should provide additional disclosures in its accounts to take account of this.

The report and accounts shall outline the SIB’s main activities and performance during the previous financial year and set out in summary form the SIB’s forward plans. Information on performance against key targets shall be included in the notes to the accounts, and shall therefore be within the scope of audit.

The report and accounts shall be laid before the Northern Ireland Assembly, in accordance with the guidance in DAO (DFP) 3/03 “Final Version of Accounting Guidance for NDPB’s and Trading Funds 2002-03” on the procedures for presenting and laying the combined annual report and accounts.

### **5.2 *External Audit***

The SIB’s accounts will be audited by their external auditors and the SIB shall submit the audited accounts to their Board members. The reports and accounts will be submitted to OFMDFM for Ministerial approval.

The SIB will instruct its auditors to send copies of all management letters and SIB responses in relation to those letters to the Additional Accounting Officer of OFMDFM.

In addition, the C&AG will have access to the books and records of the SIB in order to follow up any concerns over matters of regularity and propriety.

### **5.3 *VFM examinations***

The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the SIB has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under Article 10 Audit (NI) Order 1987 and The Audit and Accountability (NI) Order 2003. In addition, the SIB shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.



## 6 Staff Management

### 6.1 General

Within the arrangements approved by Ministers, the SIB shall have responsibility for the recruitment, retention and motivation of its staff. To this end the SIB shall ensure that:

- its rules for the recruitment and management of staff create an inclusive culture in which diversity is fully valued; where appointment and advancement is based on merit; and where there is no discrimination on grounds of gender, marital status, domestic circumstances (e.g. whether or not staff have dependents), political opinion, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
- the level and structure of its staffing, including gradings and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy;
- the performance of its staff at all levels is satisfactorily appraised and the SIB's performance measurement systems are reviewed from time to time;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the SIB's objectives;
- proper consultation with staff takes place on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistleblowing procedures consistent with the Public Interest Disclosure Act are in place; and
- a code of conduct for staff is in place based on the Cabinet Office document "*Model Code for Staff of Executive Non-Departmental Public Bodies*".



## **7      Reviewing the Role of the SIB**

### **7.1    *Comprehensive Review***

The Department will commission a comprehensive review of the SIB at least once every five years.

The first review of the SIB will take place in the financial year 2006-07.



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### A-1 Introduction

#### General

1. This financial memorandum forms part of the management statement. It sets out in greater detail certain aspects of the financial framework within which the SIB is required to operate.
2. The terms and conditions set out in the combined document may be supplemented by guidelines or directions issued by OFMDFM in respect of the exercise of any individual functions, powers and duties of the SIB.
3. The SIB shall satisfy the conditions and requirements set out in the combined document, together with such other conditions as OFMDFM may from time to time impose.
4. Nothing in this document alters the arrangements whereby OFMDFM is required to seek DFP approval as part of normal agreed delegation and approval arrangements.

#### The Departmental Expenditure Limit (DEL)

5. The SIB's current and capital expenditure form part of OFMDFM's Resource DEL and Capital DEL respectively.

#### Expenditure not proposed in the budget

6. The SIB shall not, without prior written Departmental approval, enter into any undertaking to incur any expenditure which falls outside the SIB's delegations or which is not provided for in the SIB's annual budget as approved by the Department.

#### Procurement

7. The SIB's procurement policies shall reflect the public procurement policy adopted by the Northern Ireland Executive in May 2002 and Procurement Policy Guidelines issued by the Procurement Board. The SIB will, however, review the integration of social policies into PPP contracts on a project by project basis for the foreseeable future. The SIB shall also ensure that it complies with any relevant EU or other international procurement rules.
8. Periodically and wherever practicable the SIB's procurement shall be benchmarked against best practice elsewhere and where the SIB does not have by 31 March 2005 a centre of Procurement Expertise recognised by the Procurement Board, procurement activity should be carried out by

means of a documented Service Level Agreement with the Central Procurement Directorate (DFP) or a relevant Centre of Expertise.

### **Competition**

9. Contracts shall be placed on a competitive basis and tenders accepted from suppliers who provide best value for money overall.
10. If SIB proposes to let single tender contracts, it shall seek advice from Central Procurement Directorate or a Centre of Expertise in procurement and the SIB shall send to the Department after each financial year a report for that year explaining any contracts above £5,000 in which competitive tendering was not employed.

### **Value for money**

11. Procurement by the SIB of works, supplies and services shall be based on value for money, i.e. the optimum combination of whole life cost and quality (or fitness for purpose) to meet the SIB's requirements. Where appropriate, a full option appraisal shall be carried out before procurement decisions are taken.

### **Timeliness in paying bills**

12. The SIB shall collect receipts and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in Chapter 21 of GANI. The SIB shall comply with the British Standard for Achieving Good Payment Performance in Commercial Transactions (BS 7890), and with the Late Payment of Commercial Debts (Interest) Act 1998 as amended. [NOTE: The 1998 Act allows creditors to claim statutory interest and compensation on late payment of commercial debts].

### **Novel, contentious or repercussive proposals**

13. The SIB shall obtain the approval of the Department and of DFP before:
  - incurring any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits;
  - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department;
  - making any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.

### **Risk management**

14. The SIB shall ensure that the risks which it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy, in accordance with the Treasury guidance *Management of Risk: A Strategic Overview* issued under cover of DPFO letter of 30 April 2001.

15. The SIB shall adopt and implement policies and practices to safeguard itself against fraud and theft, in line with Treasury's guide "*Managing the Risk of Fraud*" issued under cover of DPFO letter of 15 January 1998.
16. The SIB shall take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

### **Wider markets**

17. In accordance with the wider markets policy the SIB shall seek to maximise receipts from non-Exchequer sources provided that this is consistent with (a) the SIB's main functions (b) its corporate plan as agreed with OFMDFM.

### **Fees and charges**

18. Fees or charges for any services supplied by the SIB shall be determined in accordance with the *Treasury's Fees and Charges Guide*.

## **A-2 The SIB's Income**

### **General**

19. When calculating its budgetary requirements, the SIB must take account of any income generated or likely to be generated.

### **Grant-in-aid**

20. Grant-in-aid will normally be paid to the SIB in quarterly instalments, on the basis of a written application from the SIB showing evidence of need. It is paid to enable the SIB to discharge its duties, powers and functions under the Strategic Investment and Regeneration of Sites (Northern Ireland) 2003 Order. The application shall certify that the conditions applying to the use of grant-in-aid have been adhered to date and that further grant-in-aid is now required for purposes appropriate to the SIB's functions.
21. The SIB should have regard to the guidance in DAO (DFP) 4/03 and to the general principle enshrined in Chapter 13 of GANI that it should seek grant-in-aid according to need.
22. Cash balances accumulated during the course of the year from grant-in-aid or other sources, shall be kept at the minimum level consistent with the efficient operation of the SIB. Grant-in-aid not drawn-down by the end of the year shall lapse. However, where draw-down of grant-in-aid is delayed to avoid excess cash balances at year-end, OFMDFM will make available in the next financial year – subject to approval by the Assembly of the relevant Estimates provision – any such grant-in-aid which is required to meet any liabilities at year end, such as creditors.
23. All applications must be in a form prescribed by the Department and must be signed by the SIB's Chief Executive, or by a person notified by him to the Department as authorised to sign on the Chief Executive's behalf.
24. Grant-in-aid should not be anticipated.
25. The SIB should not build up unacceptably large balances during the financial year. It must also have reliable systems in place to allow OFMDFM to

monitor performance of expenditure against the grant-in-aid. In the event of frequent unreliable forecasts, OFMDFM will require the SIB to take steps to improve forecasts.

26. OFMDFM should also take into account any unspent balances when determining instalments of grant-in-aid made during the year. An unspent balance in one financial year may be carried over to the next, but OFMDFM may take amounts exceeding 5% into account in determining the instalment of grant-in-aid at the start of the next financial year.
27. The SIB may make payments only in respect of liabilities which have been properly matured and been billed. There should be no postponement of payments by the SIB in order to avoid incurring an overdraft or (at the end of a financial year) exceeding the grant level.
28. The Department maintains the right to withhold, suspend or reduce grant-in-aid.

### **Receipts from sale of goods or services**

29. Receipts from the sale of goods and services (including certain licenses where there is a significant degree of service to the individual applicant), rent of land, and dividends are classified as negative public expenditure in national accounts and are therefore normally offset against the DEL (i.e. they provide additional DEL spending power).
30. If there is any doubt about the correct classification of a receipt the SIB shall consult OFMDFM, who will consult DFP as necessary.

### **Fines, taxes and other receipts**

31. Most fines and most taxes (including levies and some licenses) are not negative public expenditure and do not provide additional DEL spending power. Such receipts shall either be surrendered to OFMDFM or, if retained, shall either reduce the need for grant-in-aid or, if used to finance additional expenditure by the SIB, shall require additional DEL cover from the Department.

### **Interest earned**

32. Any interest earned by the SIB on its assets shall be given the same budgeting treatment as the cost of capital charge on the assets.
33. Under SR2002 budgeting rules (which operate from 2003-04), the cost of capital charge and any interest receipts on most DEL financed assets score as resource DEL.
34. If the receipts are used to finance additional expenditure by the SIB, the Department will need to ensure it has the necessary DEL cover. Any interest earned on cash balances arising from grant-in-aid or other Exchequer funds shall be treated as a receipt from an Exchequer source. Depending on the budgeting treatment of this receipt, and its impact on the SIB's cash requirement, it may lead to commensurate reduction of grant-in-aid or be required to be surrendered to the Consolidated Fund via the Department.

**Unforecast changes in in-year income**

35. If the negative DEL income realised or expected to be realised in the year is less than estimated, the SIB shall, unless otherwise agreed with the Department, ensure a corresponding reduction in its gross expenditure so that the authorised provision is not exceeded. [NOTE: For example, if an NDPB is allocated £100 resource DEL provision by its parent Department and expects to receive £10 of negative DEL income, it may plan to spend a total of £110. If income (on an accruals basis) turns out to be only £5 the NDPB will need to reduce its expenditure to £105 to avoid breaching its budget. If the NDPB still spends £110 the parent Department will need to find £5 of savings from elsewhere within its total DEL to offset this overspend.]
36. If the negative DEL income realised or expected to be realised in the year is more than estimated, the SIB may apply to the Department to retain the excess income for specified additional expenditure within the current financial year without an offsetting reduction to grant-in-aid. The Department shall consider such applications, taking account of competing demands for resources. If an application is refused, any grant-in-aid shall be commensurately reduced or the excess receipts shall be required to be surrendered to the NI Consolidated Fund via OFMDFM. (These arrangements are subject to the provisions set out under the heading Disposal of Assets, paragraphs 75 and 76 below refer.)

**Build-up and draw-down of deposits**

37. The SIB shall comply with the rules that any DEL expenditure financed by the draw-down of deposits counts within DEL and that the build-up of deposits may represent a saving to DEL (if the related receipts are negative DEL in the relevant budgets).
38. The SIB shall ensure that it has the necessary DEL provision for any expenditure financed by draw-down of deposits.

**Proceeds from disposal of assets**

39. Disposals of land and buildings are dealt with in Section A-5 below.

**Gifts and bequests received**

40. The SIB is free to retain any gifts, bequests or similar donations. These shall be treated as receipts. [NOTE: Donated assets do not attract a cost of capital charge, and a release from the donated assets reserve should offset depreciation in the operating cost statement.]
41. Before proceeding in this way the SIB shall consider if there are any associated costs in doing so or any conflicts of interests arising. The SIB shall keep a written record of any such gifts, bequests and donations and of their estimated value and whether they are disposed of or retained.

**Receipts from the EC**

42. Receipts from the European Community if retained by OFMDFM/SIB do not provide additional DEL spending power for the SIB.

## **Borrowing**

43. The SIB shall observe the rules set out in Section 25 of GANI if considering borrowing of any kind. The SIB must seek the approval of OFMDFM and DFP if it wishes to enter into borrowing. Medium or long term private sector or foreign borrowing is subject to the value for money test in *Government Accounting NI*. In line with Treasury rules, the SIB may only borrow from the National Loans Fund, through DFP. Net lending by OFMDFM to the SIB will count against the OFMDFM DEL allocation.

## **Reserves**

44. The SIB is not permitted to hold any reserves.

## **A-3 Expenditure on Staff**

### **Staff costs**

45. Subject to its delegated levels of authority the SIB shall ensure that the creation of any additional posts does not incur forward commitments which will exceed its ability to pay for them.

### **Pay and conditions of service**

46. The Business Plan approved by OFMDFM and agreed by DFP shall set out a framework of levels of remuneration and terms and conditions of service (including superannuation) for SIB staff, whether on a permanent or temporary contract. The levels of remuneration shall be subject to an overall budget limit which will also be set out in the Business Plan.
47. The travel expenses of SIB employees/secondees shall be based on Departmental rates except where the Chief Executive obtains formal Board approval to variations to meet the organisation's business needs.
48. The SIB may operate a performance-related pay scheme which shall form part of the general pay structure approved by the Department and DFP.
49. The SIB shall comply with the EU directive on contract workers ["Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)"].

### **Pensions; redundancy/compensation**

50. The SIB's staff shall normally be eligible for a pension.
51. SIB is prepared to pay its agreed pension contribution into a suitable stakeholder pension in the name of the employee and has made arrangements to participate in the Partnerships UK scheme under which it will carry the costs of financial advice.
52. Any proposal by the SIB to move from the initially agreed pension arrangements, or to pay any redundancy or compensation for loss of office, requires the approval of the Department. Proposals on severance payments must comply with DAO(DFP) 23/02.

## **A-4 Non-Staff Expenditure**

### **Capital expenditure**

53. Subject to being above an agreed capitalisation threshold, all expenditure on the acquisition or creation of fixed assets shall be capitalised on an accruals basis. Expenditure to be capitalised shall include the (a) acquisition, reclamation or laying out of land; (b) acquisition, construction, preparation or replacement of buildings and other structures or their associated fixtures and fittings; and (c) acquisition, installation or replacement of movable or fixed plant, machinery, vehicles and vessels.
54. Proposals for large-scale individual capital projects or acquisitions will normally be considered within the SIB's corporate planning process. Applications for approval by the Department [and if necessary DFP] shall be supported by formal notification that the proposed project or purchase has been examined and duly authorised by the Board. Regular reports on the progress of projects shall be submitted to the Department.
55. Within its approved overall resources limit the SIB shall, as indicated in the attached Appendix 1 on Delegations, have delegated authority to spend up to £50,000 on any individual capital project or acquisition. Beyond that delegated limit, the Department's prior authority must be obtained before expenditure on an individual project or acquisition is incurred.

### **Transfer of funds within budgets**

56. Unless financial provision is subject to specific OFMDFM or DFP controls (e.g. where provision is ring-fenced for specific purposes), transfers between expenditure budgets within the total capital budget, or between expenditure budgets within the total revenue budget, do not need Departmental approval. [NOTE: Under SR2002 budgeting rules (which operate from 2003-04) transfers from capital to resource budgets are not allowed.]

### **Lending, guarantees, indemnities, contingent liabilities, letters of comfort**

57. The SIB shall not, without the Department and DFP's prior written consent, lend money, charge any asset or security, give any guarantee or indemnities or letters of comfort, or incur any other contingent liability (as defined in chapter 26 of GANI), whether or not in a legally binding form.

### **Grant or loan schemes**

58. Unless covered by a delegated authority, all proposals to make a grant or loan to a third party, whether one-off or under a scheme, shall be subject to prior approval by OFMDFM and DFP, together with the terms and conditions under which such grant or loan is made. If grants or loans are to be made under a continuing scheme, statutory authority is likely to be required.
59. The terms and conditions shall include a requirement on the receiving organisation to prepare accounts and to ensure that its books and records in relation to the grant or loan are readily available for inspection by the SIB, the Department and the C&AG.

60. See also below under the heading Recovery of grant-financed assets.

### **Gifts made, write-offs, losses and other special payments**

61. Proposals for making gifts or other special payments (including write-offs) outside the delegated limits set out in the Appendix to this document must have the prior approval of the Department.
62. Gifts by management to staff are subject to the requirements of DAO (DFP) 05/03.

### **Leasing**

63. Prior Departmental approval must be secured for all property and finance leases. The SIB must have capital DEL provision for finance leases and other transactions which are in substance borrowing (paragraph 43 refers).
64. Before entering into any lease (including an operating lease) the SIB shall demonstrate that the lease offers better value for money than purchase.

### **Public/Private Partnerships**

65. The SIB shall seek opportunities to enter into Public/Private Partnerships where this would be more affordable and offer better vfm than conventional procurement. Where cash flow projections may result in delegated spending authority being breached the SIB shall consult OFMDFM.
66. Any partnership controlled by the SIB shall be treated as part of the SIB in accordance with UK GAAP and consolidated with it [subject to any particular treatment required by UK GAAP]. Where the judgment over the level of control is a close one, OFMDFM will consult DFP.

### **Subsidiary companies and joint ventures**

67. The SIB shall not establish subsidiary companies or joint ventures without the express approval of OFMDFM and DFP. In judging such proposals the Department will have regard to the Department's wider strategic aim, objectives and current Public Service Agreement.
68. Any subsidiary company or joint venture controlled or owned by the SIB shall be consolidated with it in accordance with UK GAAP for public expenditure accounts purposes [subject to any particular treatment required by UK GAAP]. Where the judgment over the level of control is a close one, the Department will consult DFP (who may need to consult with the Office of National Statistics over national accounts treatment). Unless specifically agreed with OFMDFM and DFP, such subsidiary companies or joint ventures shall be subject to the controls and requirements set out in this management statement and financial memorandum, and to the further provisions set out in supporting documentation.

### **Financial investments**

69. The SIB shall not make any investments in traded financial instruments without the prior written approval of the Department, nor shall it aim to build up cash balances or net assets in excess of what is required for operational purposes. Equity shares in ventures which further the objectives of the SIB

shall equally be subject to Departmental approval unless covered by a specific delegation.

### **Unconventional financing**

70. Unless otherwise agreed with OFMDFM, the SIB shall not enter into any unconventional financing arrangement.

### **Commercial insurance**

71. The SIB shall not take out any insurance without the prior approval of the Department, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in paragraph 27.4.3 of GANI.
72. The Department shall have a written agreement with the SIB about the circumstances in which, in the case of a major loss or third-party claim, an appropriate addition to budget out of the Department's funds and/or adjustment to the SIB's targets shall be considered.
73. A Certificate of Exemption for Employer's Liability Insurance has been issued to the SIB.

## ***A-5 Management and Disposal of Fixed Assets***

### **Register of assets**

74. The SIB shall maintain an accurate and up-to-date register of its fixed assets.

### **Disposal of assets**

75. The SIB shall not, without the prior written consent of OFMDFM dispose of any significant assets. The SIB shall dispose of assets which are surplus to its requirements. Assets shall be sold for best price, taking into account any costs of sale. High value assets shall be sold by auction or competitive tender unless otherwise agreed by the Department and in accordance with Chapter 32 of GANI.
76. Any receipts will be dealt with in accordance with the rules on additional in-year income (paragraphs 35 and 36 refer).

### **Recovery of grant-financed assets**

77. Where the SIB has financed expenditure by a third party on capital assets, the SIB shall make appropriate arrangements to ensure that any such assets are not disposed of by the third party without the SIB's prior consent.
78. The SIB shall therefore ensure that such conditions are sufficient to secure the repayment of the Exchequer's due share of the proceeds of the sale, in order that funds may be surrendered to the Department.
79. The SIB shall ensure that if the assets created by grants made by the SIB cease to be used by the recipient of the grant for the intended purpose, a proper proportion of the value of the asset shall be repaid to the SIB for surrender to the Department. The amounts recoverable under the procedures in paragraphs 75-76 above shall be calculated by reference to the

best possible value of the asset and in proportion to the Exchequer's original investment(s) in the asset.

## **A-6 Budgeting Procedures**

### **Setting the annual budget**

80. Each year, in light of decisions by OFMDFM on the SIB's draft corporate plan, the Department will send to the SIB:
  - a formal statement of any funding provision planned by OFMDFM and as approved by the Minister in the light of competing priorities across the Department; and
  - a statement of any change in policies affecting the SIB.
81. The notified funding provision will be subject to annual Assembly approval and will form part of DEL.
82. The SIB's approved annual business plan will take account of its approved funding provision and any other forecast receipts, and will include a budget of estimated payments and receipts, together with a profile of expected expenditure and of draw-down of Departmental funding and/or other income over the year.
83. Any grant-in-aid provided by OFMDFM for the year in question will be voted in OFMDFM Estimates and will be subject to Assembly control.

### **General conditions for authority to spend**

84. Once the SIB's budget has been approved by the Department [and subject to any restrictions imposed by Statute/Ministers of state/this document], the SIB shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:
  - the SIB shall comply with the delegations set out in the Appendix 1 of this document.
  - the SIB shall comply with the conditions set out in paragraph 13 above regarding novel, contentious or repercussive proposals;
  - inclusion of any planned and approved expenditure in the SIB's budget shall not remove the need to seek formal Departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed or is an extension or change to a current scheme;
  - the SIB shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require (paragraph 85 below).

### **Providing monitoring information to the Department**

85. The SIB shall provide OFMDFM with:
  - a financial report every quarter showing for each main budget heading the payments made and any receipts received in the previous month,

together with the accumulated net payments to date and the balance of cash remaining available to the SIB for the year;

- an analysis every quarter of financial outturn against forecasts of expenditure and income, together with revised forecasts of spending for the remaining months, indicating proposed action when necessary;
- such other information as OFMDFM may from time to time require, in agreement with SIB, to enable it to respond to PQs and Ministerial or other queries.

## **A-7 Banking and Cash Management**

### **Banking arrangements**

86. The SIB's Accounting Officer is responsible for ensuring that the SIB's banking arrangements are in accordance with the requirements of *Government Accounting Northern Ireland* and the guidance in the Treasury document "*Departmental Banking: a Manual for Government Departments*". In particular, he/she shall ensure that the arrangements safeguard public funds and are carried out efficiently, economically and effectively.

87. The SIB's Accounting Officer shall therefore ensure that:

- these arrangements are suitably structured and represent value-for-money, and are reviewed at least every two years, with a comprehensive review, usually leading to competitive tendering, at least every three to five years;
- sufficient information about banking arrangements is supplied to OFMDFM's Additional Accounting Officer to enable the latter to satisfy his own responsibilities;
- the SIB's banking arrangements shall be kept separate and distinct from those of any other person, NDPB or organisation;
- adequate records are maintained of payment and receipts and adequate facilities are available for the secure storage of cash.

### **Cash balances**

88. Cash balances accumulated during the course of the year shall be kept at the minimum level consistent with the efficient operation of the SIB.

### **Interest earned**

89. Any interest earned on cash surpluses arising from grant/grant-in-aid or other Exchequer funds shall be treated as a receipt from an Exchequer source and may lead to commensurate abatement of grant-in-aid or may be required to be surrendered to the Consolidated Fund via the Department.

### **Hospitality and use of credit cards**

90. The SIB will develop hospitality guidelines which it will agree with OFMDFM in line with DAO (DFP) 17/97 and will develop use of credit card guidelines which it will agree with OFMDFM in line with DAO (DFP) 24/02.

## **A-8 Compliance with Instructions and Guidance**

### **Relevant documents**

91. The SIB shall comply with:

- this document (both the management statement and the financial memorandum);
- Government Accounting Northern Ireland, including in particular the Accounting Officer Memorandum for NDPB's reproduced in Chapter 8 of GANI;
- Executive NDPB's - Annual Reports and Accounts Guidance, issued by DFP;
- relevant Dear Accounting Officer letters issued by DFP;
- the Treasury guidance document Regularity and Propriety;
- the Consolidation Officer Memorandum issued by DFP;
- relevant Dear Consolidation Officer letters;
- other relevant guidance and instructions issued by DFP in respect of Whole of Government Accounts;
- other relevant instructions and guidance issued by DFP or OFMDFM;

## **A-9 Review of Financial Memorandum**

92. This financial memorandum, together with the associated management statement will be reissued one year after its commencement and thereafter reviewed at least every five years as part of the comprehensive review of the SIB ([the fifth paragraph in Section 1.2 on page 5] of the Management Statement refers).

93. This Financial Memorandum may be amended or supplemented from time to time by the issue of substitute/additional guidance by the Department to the SIB, for example in the form of "Dear Accounting Officer" letters.

Management Statement and Financial Memorandum agreed and signed:

On behalf of OFMDFM

\_\_\_\_\_ Additional Accounting Officer 2003

On Behalf of SIB

\_\_\_\_\_ Interim Chief Executive 2003

## Appendix 1 Delegations

### A1.1 Write-Off of Losses

1. The Chief Executive may write off losses in the following categories, subject to the delegation limits at paragraph 2:
  - a. overpayments of grants or subsidies;
  - b. losses due to the failure to make adequate charges for the use of public property or services;
  - c. any claim for compensation for damage to the personal property of members of the Commission or its employees;
  - d. overpayments of pay, pensions and allowances;
  - e. claims abandoned;
  - f. cash losses;
    - i. losses by fraud, theft, vandalism or negligence
    - ii. physical losses of cash eg, by fire
    - iii. losses of equivalents to cash, eg stamps
    - iv. unvouched or incompletely vouched payments
  - g. store losses;
    - i. stores losses due to proven fraud, proven or suspected theft, arson or sabotage and losses by culpable negligence, including reparable damage to buildings, stores etc caused maliciously or by culpable negligence but not losses which are the subject of an identifiable legal claim against some person or organisation;
    - ii. stores losses due to other causes, eg
      1. losses from “incidents of the service”, including fire (other than arson), effect of weather and accident beyond the control of any responsible person.
      2. losses due to deterioration in store, arising from a defect in administration eg over-provisioning, retention in stock of items with a known shelf life in quantities greater than could be turned out within that life, failure to turn over stocks in due sequence, etc;
      3. losses due to natural causes (evaporation, shrinkage) and breaking down from bulk, if the storage is not within accepted levels of tolerance; and
      4. losses due to damage to vehicles;
  - h. constructive losses and fruitless payments; e.g. stores or services such as technical advice, ordered and delivered or provided, but which prove not to be needed or to be less useful than anticipated. Losses falling under this sub-paragraph should be placed on record with the least

possible delay and with the cases adequately documented for auditing purposes; and

- i. bad debts.
2. The authority delegated under paragraph 1 will apply to write-off losses of up to £2,000 for any single event falling within any of the categories (a) to (h) in paragraph 1. In the case of (i) the Chief Executive's delegated authority will be £500 for any single event. The delegated authority to write-off losses in the categories specified in paragraph 1 is subject to an aggregate of £5,000 in any financial year.
3. In all other cases, the Department's prior approval to write-off should be sought. Should there be any doubt about the correct classification of any item, reference should be made to the Department. All applications to the Department for approval of write-offs should be made with the minimum of delay.

### ***A1.2 Purchasing/Economic Appraisal***

4. The principles of economic appraisal should be applied in all cases where expenditure is proposed, whether the proposal involves capital or recurrent expenditure, or both. The effort put into economic appraisal should be commensurate with the size or importance of the needs or resources under consideration. However the SIB should undertake a comprehensive economic appraisal of all capital projects involving expenditure of more than £50,000. The Department's approval is required for all capital projects involving expenditure of more than £50,000.
5. Economic appraisal is not an optional technique; it is an essential part of good financial management and is a systematic process for examining alternative use of resources. It is designed to assist in defining problems and finding the solutions which offer the best value for money. The basic steps include the determination of needs and objectives, the identification of options, and the consideration of their costs and benefits together with any other relevant factors. Detailed guidance on economic appraisal is contained in the HM Treasury Green Book on economic appraisal.
6. Purchasing arrangements should reflect the need to be openly and demonstrably fair and impartial in the awarding of public contracts and should be such as to secure best value for money in terms of quality (ie fitness for purpose), delivery, whole-life costs, etc. Detailed guidance on purchasing principles and payment procedures is contained in GANI chapter 31.
7. The SIB must ascertain whether any purchase or contract is subject to the various UK regulations which implement European Directives and rules on public sector contracts. Advice may be obtained from the Procurement Service.
8. Goods and services should be acquired by competition unless there are convincing reasons to the contrary as outlined in GANI 31.1.3. The form of competition should be appropriate to the value and complexity of the goods or services to be acquired. Specific delegation limits apply in the case of consultancy services (paragraphs 14 – 15 refer) and IT projects (para-

graphs 16 – 17 refer). In other cases, delegated authority for the purpose of the purchase of goods and services is as follows:

	QUOTATIONS	AUTHORISATION
Up to £500	No special requirement	SIB
£500 to £5,000	2 written quotations/tenders	SIB
£5,000 to £10,000	3 written tenders	SIB
£10,000 to £25,000	4 written tenders	SIB
Above £25,000	Open tendering secured by public advertisement	SIB plus advice and approval from OFM/DFM
Above £50,000	Open tendering secured by public advertisement and full economic appraisal (see DAO (DFP) 9/91)	SIB plus advice and approval from OFM/DFM

9. The SIB may enter into lease and/or rental agreements for the provision of goods and services. Lease and rental agreements for the provisions of goods and services should be open to competitive tendering in the same way as purchases unless there are convincing reasons to the contrary. The delegations established at paragraph 8 will also apply to lease and rental agreements with the cash values relating to the annual cost of the arrangement. Departmental approval must be obtained for any leasing and/or rental agreement of a value of £25,000 or more per annum.
10. In order to obtain the required minimum number of quotations/tenders, purchasing officers should always aim to invite more than the stipulated number. In the case of the level 'up to £500' every attempt should be made to obtain more than one quotation.
11. If the estimated value of the purchase is close to the upper limit then it would be advisable to invite the number of quotations/tenders required in the next level. The possibility of combining repeat purchases to increase buying power should be explored. Orders must not be split so as to avoid the need for competitive tendering.
12. For any purchase or contract where the minimum number of quotations/tenders was not obtained, the SIB may permit the purchase to proceed if satisfied that every attempt has been made to obtain competitive offers and that value for money will be achieved. In these cases a report should be submitted Chief Executive. Records of all correspondence are to be retained on file including any justification given and/or approvals obtained.
13. Prior approval from the Department is required before any advance payment or deferred payment arrangements are entered into.

### **A1.3 Consultants**

14. The procurement arrangements for both Consultancy and the Enabling Budgets shall be subject to the process described in Appendix 2.
15. The following provisions shall apply to consultancy assignments that fall outside the Consultancy and Enabling Budgets.
16. SIB has full delegated authority to appoint consultants subject to the requirements laid down in DPS (DFP) 2/95 and any subsequent updates.
17. In all cases where the consultancy assignment exceeds £10,000 a business case should be prepared in line with the procedures detailed in DPS (DFP) 2/95 and subsequent updates.
18. Where the consultancy assignment exceeds £50,000 the SIB must obtain the prior approval of the Department and DFP.

### **A1.4 Information Technology Expenditure, Evaluation and Delegated Authority**

19. The effort to be devoted to the justification of IT projects, including the staffing and other resources, should be commensurate with the size and importance of the IT project. All IT projects must comply with the conditions listed in paragraph 6 of DAO (DFP) 8/94 and any subsequent updates.
20. IT requirements should be the subject of competition unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the project. Delegated authority for the purpose of each IT project is as follows:

	<b>REQUIREMENT</b>	<b>AUTHORISATION</b>
Projects between £10,000 and £25,000	At least 3 written tenders	SIB plus advice and approval from OFM/DFM
Projects between £25,000 and £50,000	At least 3 written tenders and appraisal	SIB plus advice and approval from OFM/DFM
Projects over £50,000	At least 3 written tenders and a Business Case (see DAO (DFP) 8/94)	SIB plus advice and approval from OFM/DFM

## **Appendix 2 Procedures for Use of Consultancy and Enabling Budgets**

### ***A2.1 Purpose of Consultancy and Enabling Budgets***

1. SIB has limited internal resources, and in order to maximise the attainment of SIB's objectives, SIB will supplement its own resources by buying in specialist skills from private sector consultants and law firms. This has been recognised by OFMDFM and DFP by allocating 2 budgets for this purpose: an Enabling Budget that it will use to co-sponsor projects, including assistance with advisers and project management; and a Consultancy Budget which it will use to supplement SIB's own resources e.g. PPP insurance advice, legal assistance with drafting Standardisation of PPP Contracts in Northern Ireland, etc. Consultants will only be used when they will add value to the work of the SIB.
2. The budgets have not been broken down for specific assignments, but examples of consultancies for 2003/04 include:
  - Advice on the planning process in Northern Ireland, and practical experience of the timetable and process for obtaining consents and permits
  - Community consultation on schools
  - Scoping options for the management of the government estate
  - Assistance with development of guidance on Standardisation of PPP contracts in Northern Ireland
  - Executive Investment Strategy development, including a framework for appraising capital investment projects and Departmental Investment Strategies
  - Support for the recruitment and development of Project Directors
  - Work on the reform options for the water sector
3. The Enabling and Consultancy budget allocations were only confirmed in late July 2003 and therefore the detailed plans for expenditure are still in the development stage. It is provisionally planned to spend the 2003/2004 allocations in the year and details of the spending programme will be put to the Board in due course.

### ***A2.2 Consultancy and Enabling Budgets Distinguished From Procurement of Non-Core Services***

4. The Consultancy and Enabling Budgets will be used only for SIB's core functions as set out in the founding legislation and Memorandum and Articles of Association of SIB. The procurement rules set out in the Annex to SIB's Management Statement and Financial Memorandum will apply to the procurement of non-core services only such as IT, stationery supply etc. Those rules will not apply to procurements under the Consultancy and Enabling Budgets.

## **A2.3 Use of the Consultancy and Enabling Budgets**

5. Once SIB's annual Budget has been approved by OFMDFM and DFP and hence the annual Enabling Budget and Consultancy Budget have been approved, SIB will not seek further approval from OFMDFM or any other Department for individual consultancies or contracts awarded under the Enabling or Consultancy Budgets.
6. Furthermore, SIB will seek Ministerial approval for all expenditure within these budgets on an annual basis to negate the necessity of seeking Ministerial approval for any individual contract valued at over £50,000.
7. Many of the advisorships on large contracts will exceed the £50,000 limit. It would therefore seriously impede SIB's ability to perform its mandate to accelerate infrastructure procurement if it had to await individual approvals on a contract by contract basis.
8. However, in order to ensure transparency, fairness and non-discrimination in the award of contracts, SIB will follow the following procedure in awarding any contract under either the Enabling or Consultancy Budget:
  1. SIB will follow EU public procurement law in the award of all contracts.
  2. Where advertisement of a contract in the Official Journal of the European Communities is not required under EU law, SIB will run an appropriate competition depending on the particular skills required.
  3. The norm should be to advertise the contract in the appropriate press and to run a competition or to obtain 4 tenders.
  4. There may be exceptional circumstances where it is not appropriate to advertise the contract or to obtain 4 tenders. Where this is the case advice must be sought from SIB's legal adviser.
  5. In the case of all contracts awarded under the Enabling Budget or Consultancy Budget, SIB staff must fill in the attached pro-forma document and give a copy to Hilda Boland to be kept on file. A copy of this file will be sent to OFMDFM annually.
  6. SIB will comply with the provisions of the Service Level Agreement to be agreed with Central Procurement Directorate.

## **A2.4 Pro-forma documentation**

### **A2.4.1 Business Case**

9. The business case will be carried out with reference to the Northern Ireland Guide to the Green Book. It will be proportionate to the amount of expenditure involved and include the following topics.
  1. Strategic Context of the assignment

This will explain the strategic context for the assignment, its aims and objectives, the rationale for the SIB involvement, comments on skills, resources, etc.

## 2. Establish the need for the expenditure

Why does the SIB need to become involved and incur this expenditure e.g. what is going wrong with the project that needs to be addressed, etc.

## 3. Define the objectives and constraints

This will focus upon outcomes, outputs and targets. It will address issues such as technical, legal, financial, project management issues.

## 4. Identify and describe the options

In all cases there will be a minimum of two options – the do nothing option (status quo) and an assessment of the impact of SIB intervention. In the cases of large expenditure, (probably above £250k) more options should be considered, as it is unlikely that there would only be one approach open to the SIB in the case of large-scale projects.

## 5. Monetary costs and benefits

This section would include the estimated costs for each option along with the benefits.

## 6. Assess risk and adjust for optimism bias

This would address issues such as how the project was to be managed or controlled in order to deliver the required objectives e.g. the setting of milestones, meetings or whatever is appropriate.

## 7. Non-monetary costs and benefits

This would examine the associated in-house costs if any. In the case of the SIB this section is likely to consist of a standard statement.

## 8. Management arrangements

This would set out how the project is to be financed along with the arrangements for monitoring, evaluation and procurement. It would also address the arrangements for performance review.

## 9. Conclusion

This would set out clearly the preferred option.

### **A2.4.2 The tendering process**

#### 10. In relation to the tendering process, the SIB would also record the following information:

- What tender process was followed?
- If this departed from the norm i.e. competition or tenders, what was the justification?

- How will the contract be managed?
- What fee has been agreed and on what terms?
- Attach contractual terms and conditions agreed to the document.

# Annex B Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003 2003 No. 410 (N.I. 1)

## NORTHERN IRELAND

The Strategic Investment and Regeneration of Sites (Northern Ireland)  
Order 2003

*Made* 27th February 2003  
*Coming into operation* 7th March 2003

### ARRANGEMENT OF ORDER

#### PART I

##### INTRODUCTORY

- [1. Title and commencement](#)
- [2. Interpretation](#)

#### PART II

##### EXERCISE BY DESIGNATED COMPANY OF STRATEGIC INVESTMENT FUNCTIONS

- [3. Strategic investment functions](#)
- [4. Power of Office to arrange for formation of a company](#)
- [5. Designation of company to exercise strategic investment functions](#)
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- [7. Exercise of strategic investment functions by designated company](#)
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#### PART III

##### REGENERATION OF SITES *The relevant sites*

- [9. The relevant sites](#)  
*Functions of the Office in relation to relevant sites*
- [10. Disposal of relevant sites by the Office](#)
- [11. Regeneration of relevant sites by the Office](#)
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lished

*Regeneration of relevant sites by development corporations*

- [15. Power to establish development corporations for relevant sites](#)
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- [18. Financial assistance by development corporation](#)
- [19. Directions to development corporation by the Office](#)
- [20. Land: transfer to, and acquisition of land by, development corporation](#)
- [21. Land: disposal or transfer of land held by development corporation](#)
- [22. Agreements and arrangements with other bodies and persons](#)
- [23. Exercise of other statutory powers in relation to site of development corporation](#)
- [24. Duty on public bodies to co-operate with and facilitate development corporation](#)
- [25. Consultation](#)
- [26. Power to dissolve a development corporation](#)
- [27. Orders under this Part](#)

#### SCHEDULES:

[Schedule 1](#)      [Development Corporations](#)

[Schedule 2](#)      [Acquisition of Land](#)

[Part I](#)            [Acquisition by the Office](#)

[Part II](#)          [Acquisition by a Development Corporation](#)

[Part III](#)         [Acquisition of Land: General Provisions](#)

At the Court at Buckingham Palace, the 27th day of February 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

#### PART I

## INTRODUCTORY

### **Title and commencement**

**1.** - (1) This Order may be cited as the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003.

(2) This Order shall come into operation on the expiration of one week from the day on which it is made.

### **Interpretation**

**2.** - (1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order -

"the designated company" has the meaning given by Article 5(6);

"the Executive" means the Executive Committee of the Assembly;

"the Office" means the Office of the First Minister and deputy First Minister;

"public body" means -

(a) a Northern Ireland department;

(b) a district council; and

(c) any other body which is -

(i) established or constituted by or under a statutory provision or Royal Charter; and

(ii) funded wholly or mainly out of money appropriated by Act of the Assembly;

"relevant site" has the meaning given by Article 9(1) (read with Article 12(3));

"statutory body" means -

(a) a Northern Ireland department; and

(b) any other body which is -

(i) established or constituted by or under a statutory provision; and

(ii) funded wholly or mainly out of money appropriated by Act of the Assembly;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

(3) References in this Order to the site of a development corporation shall be construed in accordance with Articles 15(7) and 20(5).

(4) Any power of giving directions conferred by any provision of this Order includes power to vary or revoke any direction given under that provision.

(5) At any time when section 1 of the Northern Ireland Act 2000 (c. 1) (suspension of devolved government) is in force, references in Part II to the Executive shall be construed as references to the Secretary of State.

## PART II

### EXERCISE BY DESIGNATED COMPANY OF STRATEGIC INVESTMENT FUNCTIONS

#### **Strategic investment functions**

**3.** - (1) The purpose of this Part is to make provision for, and in connection with, the exercise by a designated company of strategic investment functions in relation to -

- (a) the Executive; and
- (b) bodies carrying out major investment projects.

(2) In relation to the Executive, "strategic investment functions" means advising the Executive in relation to the formulation and implementation of its programme of major investment projects.

(3) In relation to bodies carrying out major investment projects, "strategic investment functions" means -

- (a) advising those bodies in relation to the carrying out of such projects;
- (b) assisting those bodies in relation to the carrying out of such projects, including providing research, consultancy, advisory and other services and general assistance; and
- (c) participating, by agreement with those bodies, in the carrying out of such projects.

(4) In particular strategic investment functions (in relation to the Executive and bodies carrying out major investment projects) include advising on -

- (a) the planning and prioritisation of programmes and projects;
- (b) the funding of projects, including borrowings for that purpose; and

(c) the general implementation of projects (including, in the case of projects of statutory bodies, arrangements for procuring implementation wholly or partly by persons other than statutory bodies).

(5) References in this Part to "major investment projects" are to projects which -

(a) are of major strategic importance to Northern Ireland (or a part thereof); and

(b) involve substantial investment (whether or not provided out of public money).

#### **Power of Office to arrange for formation of a company**

4. For the purpose of this Part the Office may arrange for the formation of a company.

#### **Designation of company to exercise strategic investment functions**

5. - (1) The Office may by order designate a company for the purposes of this Part.

(2) A company shall not be designated under paragraph (1) unless it fulfils the following conditions, namely -

(a) it is formed by virtue of Article 4;

(b) it is formed and registered under the Companies (Northern Ireland) Order 1986 (NI 6);

(c) it is a private company limited by guarantee (and not having a share capital) within the meaning of that Order;

(d) its objects are such as to enable it to exercise strategic investment functions; and

(e) the composition of its board of directors is controlled by the Office.

(3) Article 4(2) and (3) of the Companies (Northern Ireland) Order 1986 shall apply with appropriate modifications in relation to the determination of the matter mentioned in paragraph (2)(e).

(4) The Office -

(a) may at any time revoke an order under paragraph (1);

(b) shall revoke such an order if the designated company ceases to fulfil any of the conditions mentioned in paragraph (2).

(5) No order may be made under this Article unless a draft of the order has been laid before and approved by resolution of the Assembly.

(6) Only one company may be designated under paragraph (1) at any time; and references in this Part to the designated company are to the company for the time being designated under that paragraph.

(7) In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (N.I. 7) (bodies subject to investigation) there shall be inserted, at the appropriate place -

" The company for the time being designated under Article 5 of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003."

#### **Funding of designated company**

6. - (1) The Office may make payments to the designated company out of money appropriated for the purpose.

(2) Payments under this Article shall be made on such terms and conditions as the Office may with the approval of the Department of Finance and Personnel determine.

#### **Exercise of strategic investment functions by designated company**

7. The arrangements in connection with the exercise by the designated company of strategic investment functions in relation to the Executive and statutory bodies shall be such as are approved by the Executive; and such arrangements may in particular make provision for the exercise of those functions in relation to statutory bodies -

(a) for the purposes of such particular projects as are identified in accordance with the arrangements; and

(b) in accordance with such further arrangements as are agreed in writing between the statutory body concerned and the designated company.

### **Duty on statutory bodies in relation to designated company**

8. - (1) It is the duty of every statutory body in the exercise of its functions -

(a) to facilitate the exercise by the designated company of strategic investment functions; and

(b) to co-operate with the designated company in the exercise of strategic investment functions,

to such extent as arrangements for the time being approved or made under Article 7 may require.

(2) It is the duty of every statutory body to have regard to any advice given to it by the designated company in accordance with arrangements approved or made under Article 7.

(3) Paragraph (2) applies whether the advice is given by the designated company -

(a) in relation to projects generally, in relation to projects of a specified class or description or in relation to any particular project or projects; or

(b) to the body individually, to all statutory bodies generally or to a specified class or description of body to which the body belongs.

## PART III

### REGENERATION OF SITES

#### *The relevant sites*

#### **The relevant sites**

9. - (1) In this Part references to a relevant site are references to an area of land which -

(a) on 2nd May 2002 was held by or on behalf of the Crown in right of Her Majesty's Government in the United Kingdom; and

(b) is made available to the Executive in pursuance of arrangements (known as "the reinvestment and reform initiative") made between that Government and the Executive and announced on that date.

(2) Subject to the following provisions of this Part, the Office shall have power

-

(a) to hold and manage a relevant site; and

(b) generally to implement the arrangements mentioned in paragraph (1)(b) so far as relating to relevant sites.

(3) A certificate signed by the First Minister and deputy First Minister that an area of land is a relevant site is conclusive evidence of that fact for the purposes of this Part.

#### *Functions of the Office in relation to relevant sites*

#### **Disposal of relevant sites by the Office**

10. - (1) The Office may, with the approval of the Department of Finance and Personnel, dispose of any land forming all or part of a relevant site and vested in the Office.

(2) A disposal under this Article -

(a) may be for value or otherwise; and

(b) shall be on such terms and conditions as the Office may think fit.

(3) In particular on any such disposal the Office may -

(a) impose such restrictions as the Office may think necessary on the use of the land disposed of; and

(b) grant or reserve such rights over the land as the Office may think fit.

(4) Nothing in section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (c. 6) affects the disposal by the Office of land forming all or part of a relevant site.

#### **Regeneration of relevant sites by the Office**

11. - (1) For the purpose of securing the regeneration of a relevant site, the Office may -

- (a) carry out the development or redevelopment of land, including the conversion or demolition of existing buildings;
- (b) carry out building and other operations;
- (c) provide services and facilities;
- (d) form, or acquire interests in, bodies corporate;
- (e) act with other persons, whether in partnership or otherwise;
- (f) give financial assistance to other bodies or persons in accordance with paragraphs (2) to (5);
- (g) carry out studies, investigations and research;
- (h) generally do anything necessary or expedient for that purpose.

(2) The Office may, with the approval of the Department of Finance and Personnel, provide financial assistance for any body or person doing or intending to do on or in relation to a relevant site anything falling within paragraph (3).

(3) Financial assistance under paragraph (2) may be provided for -

- (a) the promotion, development or regeneration of commercial, industrial or other economic activity;
- (b) the improvement of the environment;
- (c) the provision of housing;
- (d) the provision of social, cultural, recreational or community facilities;
- (e) the refurbishment or restructuring of buildings;
- (f) anything not falling within sub-paragraphs (a) to (e) which the Office considers will benefit the site.

(4) Financial assistance under paragraph (2) may include -

- (a) grants;
- (b) loans;

(c) guarantees;

(d) the taking of any interest in property or in a body corporate.

(5) In providing financial assistance under paragraph (2), the Office may impose such conditions as it thinks fit, including conditions for repayment in specified circumstances.

### **Acquisition of land by the Office**

12. - (1) The Office may acquire by agreement or compulsorily land which -

(a) is adjacent to a relevant site and is required by the Office for purposes connected with the discharge of its functions in relation to the site; or

(b) is required to provide or improve access to a relevant site.

(2) Parts I and III of Schedule 2 shall have effect in relation to -

(a) the compulsory acquisition of land under paragraph (1); and

(b) powers of entry in connection with the acquisition of land under that paragraph.

(3) Where land is acquired by the Office under paragraph (1) in connection with a relevant site, that land shall for the purposes of this Part be taken to form part of the relevant site.

### **Agreements and consultation with other bodies and persons**

13. - (1) The Office may -

(a) enter into an agreement with any person for the development of any land forming all or part of a relevant site, and

(b) do anything which is required in order to secure the development of that land in accordance with such agreement.

(2) The Office shall consult -

(a) the district council for the district in which a relevant site is situated;

(b) such other public bodies as the Office thinks appropriate; and

(c) such other bodies or persons as appear to the Office to have an interest in the site,

about the exercise of the Office's functions under Article 11 in relation to the site.

#### **Powers of Office not exercisable where development corporation established**

14. Articles 10 to 13 do not apply in relation to any relevant site for which a development corporation is for the time being established under Article 15.

#### *Regeneration of relevant sites by development corporations*

#### **Power to establish development corporations for relevant sites**

15. - (1) The Office may by order establish a body (to be known as a "development corporation") for a relevant site or for two or more such sites.

(2) A development corporation shall be a body corporate by such name as is specified in the order establishing it.

(3) Schedule 1 shall have effect in relation to a development corporation.

(4) The Office may by order provide for a development corporation for the time being established for any relevant site or sites to exercise its functions in relation to any additional relevant site or sites specified in the order.

(5) The Office may by order subject to negative resolution provide for a development corporation for the time being established for two or more relevant sites to cease to exercise its functions in relation to a relevant site or sites specified in the order.

(6) No order shall be made under paragraph (1) or (4) in relation to a relevant site unless -

(a) a draft of the order has been laid before, and approved by resolution of, the Assembly; and

(b) the site is vested in the Office.

(7) If a development corporation is for the time being established for two or more relevant sites, references in this Part to the site of a development corporation shall be read as references to both or all of those sites.

#### **Object and general powers of development corporations**

16. - (1) The object of a development corporation is to secure the regenera-

tion of its site.

(2) That object is to be achieved in particular by the following means (or by such of them as seem to the corporation to be appropriate) -

- (a) by bringing land and buildings into effective use;
- (b) by encouraging public and private investment and the development of industry and commerce;
- (c) by creating an attractive environment;
- (d) by ensuring that social, recreational, cultural and community facilities are available.

(3) Subject to the following provisions of this Part, for the purpose of achieving its object a development corporation may -

- (a) hold, manage and dispose of land and other property;
- (b) carry out the development or redevelopment of land, including the conversion or demolition of existing buildings;
- (c) carry out building and other operations;
- (d) provide services and facilities;
- (e) act with other persons, whether in partnership or otherwise;
- (f) give financial assistance to other bodies or persons in accordance with Article 18;
- (g) carry on any business or undertaking;
- (h) carry out studies, investigations and research;
- (i) generally do anything necessary or expedient for the purposes of its object or for purposes incidental to those purposes.

(4) Paragraph (3) relates only to the capacity of a development corporation as a statutory corporation and nothing in this Article authorises a development corporation to disregard a statutory provision or rule of law.

(5) A transaction between a person and a development corporation is not invalidated by reason of any failure of the corporation to observe -

(a) the object in paragraph (1); or

(b) the requirement in paragraph (3) that the corporation shall exercise the powers conferred by that paragraph for the purpose of achieving that object.

### **Special provision concerning powers of development corporation**

17. An order under Article 15(1) may provide -

(a) that any powers which may be exercisable by a development corporation under this Part and which are specified in the order -

(i) are not to be exercisable by the corporation established by the order; or

(ii) are not to be so exercisable without the consent of the Office or the Department of Finance and Personnel, or both;

(b) that such powers as are specified in the order are to be exercisable by the corporation established by the order in addition to those otherwise so exercisable;

and this Part shall apply in relation to the corporation accordingly.

### **Financial assistance by development corporation**

18. - (1) A development corporation may provide financial assistance for any body or person doing or intending to do on or in relation to the site anything falling within paragraph (2).

(2) Financial assistance under paragraph (1) may be provided for -

(a) the promotion, development or regeneration of commercial, industrial or other economic activity;

(b) the improvement of the environment;

(c) the provision of housing;

(d) the provision of social, cultural, recreational or community facilities;

(e) the refurbishment or restructuring of buildings;

(f) anything not falling within sub-paragraphs (a) to (e) which the corporation considers will benefit its site.

(3) Financial assistance under paragraph (1) may include -

(a) grants;

(b) loans;

(c) guarantees;

(d) the taking of any interest in property or in a body corporate.

(4) In providing financial assistance under paragraph (1), the corporation may impose such conditions as it thinks fit, including conditions for repayment in specified circumstances.

#### **Directions to development corporation by the Office**

19. - (1) The Office may give directions of a general or specific nature to a development corporation as to the manner in which it is to discharge its functions under this Part.

(2) A development corporation shall act in accordance with any direction given to it under paragraph (1).

(3) Before giving a direction under paragraph (1) to a development corporation the Office shall consult the corporation, unless the Office is satisfied that because of urgency consultation is impracticable.

(4) A transaction between a person and a development corporation acting in purported exercise of its powers under this Part shall not be void by reason only that it was carried out in contravention of a direction given under paragraph (1), and such a person shall not be concerned to see or enquire whether a direction under that paragraph has been given or complied with.

#### **Land: transfer to, and acquisition of land by, development corporation**

20. - (1) The Office may by order transfer to a development corporation any land forming all or part of the corporation's site which is vested in the Office.

(2) A development corporation may acquire by agreement or compulsorily land which -

(a) is adjacent to its site and is required by the corporation for purposes connected with the discharge of the corporation's functions in relation to its site; or

(b) is required to provide or improve access to the site.

(3) Parts II and III of Schedule 2 shall have effect in relation to -

(a) the compulsory acquisition of land under paragraph (2); and

(b) powers of entry in connection with the acquisition of land under that paragraph.

(4) A development corporation may, with the approval of the Office, make an order extinguishing or modifying any public right of way over land acquired by it under this Article; and subsections (2) to (9) of section 67F of the Transport Act (Northern Ireland) 1967 (c. 37) shall apply to an order under this paragraph as they apply to an order under subsection (1) of that section, but with the substitution -

(a) for references to the Holding Company of references to the development corporation; and

(b) for references to the Department of references to the Office.

(5) Where land is acquired by a development corporation under paragraph (2), references in this Part to the site of the corporation shall be taken to include the land so acquired.

#### **Land: disposal or transfer of land held by development corporation**

21. - (1) A development corporation may dispose of any land for the time being held by it to such person or body and in such manner as it considers expedient for securing the regeneration of the corporation's site or for purposes connected with the regeneration of that site.

(2) A disposal under paragraph (1) -

(a) may be for value or otherwise;

(b) shall be on such terms and conditions as the corporation may think fit.

(3) In particular on any such disposal the corporation may -

(a) impose such restrictions as the corporation may think necessary on the use of the land disposed of; and

(b) grant or reserve such rights over the land as the corporation may think fit.

(4) The Office may by order vest any land for the time being held by a development corporation in any public body (including the Office itself).

### **Agreements and arrangements with other bodies and persons**

**22.** - (1) A development corporation may -

(a) enter into an agreement with any person for the development of any land forming all or part of its site, and

(b) do anything which is required in order to secure the development of that land in accordance with such agreement.

(2) Where under any statutory provision powers are conferred on a public body to do anything (of whatever kind and for whatever purpose) -

(a) that body and the corporation may enter into an agreement that those powers shall, to such extent and subject to such conditions as the agreement may specify, be exercised on or in relation to its site by the corporation on behalf of that public body;

(b) the corporation shall have power to carry any such agreement into effect; and

(c) for that purpose references to the public body in any such statutory provision shall be construed as including references to the corporation.

(3) The corporation shall not enter an agreement under paragraph (2) with a public body other than a Northern Ireland department except with the approval of the Office.

(4) A public body may enter into an agreement with a development corporation that any powers of the corporation under this Part shall, to such extent and subject to such conditions as the agreement may specify, be exercised by the public body on behalf of the corporation and the public body shall have power to carry any such agreement into effect.

(5) The provisions of this Part shall, with any necessary modifications, apply to the exercise of powers under this Part by a public body in pursuance of an agreement under paragraph (4) as they would have applied to their exercise by the development corporation.

#### **Exercise of other statutory powers in relation to site of development corporation**

**23.** - (1) The Office may by order provide -

(a) that prescribed functions of any public body shall not be exercisable on, or in relation to, the site of a development corporation; or

(b) that prescribed functions of a public body shall not be so exercisable except with the consent of the corporation or in accordance with an agreement under Article 22.

(2) No order shall be made under this Article unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(3) In this Article "prescribed" means prescribed by an order under this Article.

#### **Duty on public bodies to co-operate with and facilitate development corporation**

**24.** It is the duty of a public body in the exercise of its functions -

(a) to facilitate the exercise by a development corporation of its functions; and

(b) to co-operate with a development corporation in the exercise of its functions, to such extent as the corporation may reasonably require.

## Consultation

**25.** - (1) A development corporation shall consult -

- (a) the district council for the district in which its site is situated;
- (b) such other public bodies as the corporation thinks appropriate; and
- (c) such other bodies or persons as appear to the corporation to have an interest in the regeneration of the corporation's site,

about the exercise of the corporation's functions in relation to that site.

(2) Where under the Planning (Northern Ireland) Order 1991 (NI 11) the Department of the Environment is required to consult with the relevant district council about any matter relating to or affecting the site of a development corporation, the Department shall also consult with the corporation about that matter.

## Power to dissolve a development corporation

**26.** - (1) The Office may by order make provision for, and in connection with, the dissolution of a development corporation.

(2) An order under this Article may -

- (a) provide for the transfer of the property, rights and liabilities of the corporation (including rights and liabilities under a contract of employment) to any other public body;
- (b) enable any public body to continue and complete anything which has been commenced by the corporation before its dissolution; and
- (c) contain such other provisions as appear to the Office to be necessary or expedient for giving full effect to the order.

(3) No order shall be made under this Article unless a draft of the order has been laid before and approved by resolution of the Assembly.

## Orders under this Part

**27.** - (1) An order under this Part may contain such incidental, consequential, supplementary and transitional provisions as the Office thinks necessary or ex-

pedient, including provisions amending or repealing any statutory provision (including this Order).

(2) Paragraph (1) and the Statutory Rules (Northern Ireland) Order 1979 (NI 12) do not apply to orders under Article 20(1) or (4) or 21(4) or paragraph 1 or 3 of Schedule 2 (orders vesting land, etc.).

*A. K. Galloway*

Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 15

#### DEVELOPMENT CORPORATIONS

##### *Status*

1. - (1) A development corporation shall not be regarded -
- (a) as the servant or agent of the Crown; or
  - (b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of a development corporation shall not be regarded as property of, or held on behalf of, the Crown.

(3) Subject to the following provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c.33) applies to a development corporation.

##### *Membership, chairman, etc.*

2. - (1) A development corporation shall consist of -

- (a) a chairman; and
- (b) such number of other members as is specified in the order establishing the corporation.
- (2) The chairman and other members shall be appointed by the Office.
- (3) In making appointments under this paragraph, the Office shall -
- (a) secure that each member has experience in a field of activity relevant to the discharge of the functions of the corporation;
- (b) have regard to the desirability of securing the services of people having specialist knowledge of the locality in which the site is situated; and
- (c) as far as practicable secure that the members of the corporation (taken together) are representative of the community in Northern Ireland.
- (4) At least one of the members appointed under sub-paragraph (1)(b) shall be appointed after consultation with the district council for the district in which the site of the corporation is situated.
- (5) The Office may appoint one of the members mentioned in sub-paragraph (1)(b) as deputy chairman of the corporation.
- (6) It shall be the duty of the Office -
- (a) to satisfy itself, before it appoints a person to be a member of the corporation, that that person will have no such financial or other interest as is likely to affect prejudicially the performance of his functions as a member; and
- (b) to satisfy itself from time to time with respect to each member that he has no such interest;
- and a person who is a member or whom the Office proposes to appoint as a member shall, whenever requested by it to do so, give the Office such information as it may specify with a view to carrying out its duty under this sub-paragraph.

*Tenure of office*

3. - (1) Subject to the provisions of this Schedule, a member shall hold and

vacate office in accordance with the terms of his appointment.

(2) A person shall not be appointed as a member for more than five years at a time.

(3) A person may at any time resign his office as a member by notice in writing to the Office.

(4) A person appointed as chairman or deputy chairman of the corporation -

(a) shall hold and vacate that office in accordance with the terms of his appointment;

(b) may resign that office by notice in writing to the Office; and

(c) shall cease to hold that office if he ceases to be a member.

(5) The Office may by notice in writing remove a person from office as a member or as chairman or deputy chairman of the corporation.

(6) A person who ceases (otherwise than by virtue of sub-paragraph (5)) to be a member or to be the chairman or deputy chairman of the corporation shall be eligible for re-appointment.

#### *Remuneration, etc. of members*

4. - (1) A development corporation shall pay to its members such remuneration and allowances as the Office may determine.

(2) If -

(a) a person ceases to be a member or ceases to be the chairman or deputy chairman of the corporation; and

(b) it appears to the Office that there are special circumstances which make it right that he should receive compensation,

the Office may direct the corporation to make a payment of such amount as the Office may determine.

(3) A determination of the Office under this paragraph requires the approval of the Department of Finance and Personnel.

#### *Staff, etc.*

5. - (1) A development corporation shall have -

(a) a chief executive, with responsibility to the corporation for the carrying out of its functions and the management of its employees; and

(b) such other employees as the corporation may appoint.

(2) The first chief executive of a corporation shall be appointed by the Office.

(3) Every subsequent chief executive shall be appointed by the corporation with the approval of the Office.

6. - (1) A development corporation may make arrangements with a Northern Ireland department for persons employed in the Northern Ireland civil service to be seconded to the corporation.

(2) Arrangements made with a department other than the Department of Finance and Personnel require the approval of that Department.

7. - (1) A development corporation shall pay to its employees such remuneration and allowances as it may determine.

(2) A development corporation shall -

(a) pay, or make payments in respect of, such pensions or gratuities to or in respect of its employees or former employees as it may determine; and

(b) provide and maintain such schemes (whether contributory or not) as it may determine for the payment of pensions or gratuities to or in respect of its employees or former employees.

(3) A determination of a development corporation under this paragraph requires the approval of the Office and the Department of Finance and Personnel.

(4) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of employees who suffer loss of employment or loss or diminution of emoluments.

### *Committees*

**8.** - (1) A development corporation may establish committees.

(2) A person who is not a member of the corporation shall not, except with the approval of the Office, be appointed to a committee of the corporation.

(3) A development corporation may pay to members of its committees who are neither members nor employees of the corporation such remuneration and allowances as the corporation may, with the approval of the Office, determine.

### *Delegation to committees and staff*

**9.** - (1) A development corporation may, to such extent as it may determine, delegate any of its functions to -

- (a) any committee of the corporation;
- (b) any employee of the corporation; or
- (c) any person seconded to the corporation in accordance with arrangements made under paragraph 6.

(2) Any committee of a development corporation may, to such extent as the committee may determine, delegate any functions of the committee to -

- (a) any employee of the corporation; or
- (b) any person seconded to the corporation in accordance with arrangements made under paragraph 6.

### *Proceedings*

**10.** - (1) Subject to the following provisions of this paragraph and paragraph 11, a development corporation may regulate -

- (a) its own procedure (including quorum); and
- (b) the procedure (including quorum) of its committees.

(2) A development corporation shall make provision for a quorum for meetings of its committees to include at least one member or employee of the corporation.

11. - (1) A member who is in any way, directly or indirectly, interested in any matter which falls to be considered by a development corporation shall disclose the nature of his interest at a meeting of the corporation and the disclosure shall be recorded in the minutes of the meeting.

(2) Where such a disclosure is made by any member in relation to any matter, he shall not take part in any deliberation or decision of the corporation with respect to the matter, if the corporation decides that the interest in question might prejudicially affect the member's consideration of the matter.

(3) For the purposes of this paragraph a notice given by a member at a meeting of the corporation to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any matter concerning the body or firm which falls to be considered by the corporation after the date of the notice shall be a sufficient disclosure of his interest.

(4) A member need not attend in person at a meeting of the corporation in order to make a disclosure which he is required to make under this paragraph, if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration at such a meeting.

(5) Sub-paragraphs (1) to (4) apply in relation to committees of the corporation as they apply in relation to the corporation.

12. The validity of any proceedings of a development corporation, or of any of its committees, shall not be affected by -

(a) any vacancy among the members of the corporation or of members of the committee;

(b) any vacancy in the office of the chairman or deputy chairman of the corporation;

(c) any defect in the appointment of any one or more members or of the chairman or deputy chairman of the corporation; or

(d) any failure to comply with paragraph 11.

*Application of seal and evidence*

**13.** The application of the seal of a development corporation shall be authenticated by the signature -

(a) of any member; or

(b) of any other person who has been authorised by the corporation (whether generally or specially) for that purpose.

**14.** A document purporting to be -

(a) duly executed by a development corporation under its seal; or

(b) signed on its behalf,

shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

**15.** 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 a development corporation by any person generally or specially authorised by the corporation for that purpose.

*Finance*

**16.** - (1) The Office may make payments to a development corporation out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Office may, with the approval of the Department of Finance and Personnel, determine.

**17.** - (1) A development corporation shall -

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall -

- (a) be in such form; and
- (b) contain such information,

as the Office may, with the approval of the Department of Finance and Personnel, direct.

(3) A development corporation shall, within such period after the end of each financial year as the Office may direct, send copies of the statement of accounts relating to that year to -

- (a) the Office; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall -

- (a) examine, certify and report on every statement of accounts sent to him by a corporation under this paragraph; and
- (b) send a copy of his report to the Office.

(5) The Office shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.

**18.** - (1) After consultation with a development corporation, the Office may, with the approval of the Department of Finance and Personnel, determine the financial duties of the corporation.

(2) The Office shall give the corporation notice of every determination and a determination may -

- (a) relate to a period beginning before the date on which it is made;
- (b) contain incidental or supplementary provisions; and
- (c) be varied by a subsequent determination.

(3) The Office, with the approval of the Department of Finance and Personnel, may direct a development corporation to pay to the Office out of any money

which appears to the Office to be surplus to the requirements of the corporation such sums as the Office may determine.

(4) The corporation shall comply with any such direction.

(5) Any sums received by the Office under this paragraph shall be paid into the Consolidated Fund.

#### *Annual report*

**19.** - (1) As soon as practicable after the end of each financial year, a development corporation shall send to the Office a report on the carrying out of its functions during that year.

(2) The Office shall lay a copy of the report before the Assembly.

#### *Information*

**20.** A development corporation shall -

(a) provide the Office with such information relating to its activities as the Office may require; and

(b) permit any person authorised by the Office to inspect and make copies of the accounts, books or other papers of the corporation and give that person such explanation of them as he may reasonably require.

*The Commissioner for Complaints (Northern Ireland) Order 1996 (NI. 7)*

**21.** In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) there shall be inserted, at the appropriate place -

" A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003".

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**22.** In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted, at the appropriate place -

" A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003".

*The Freedom of Information Act 2000 (c. 36)*

**23.** In Part VII of Schedule 1 to the Freedom of Information Act 2000 (bodies, etc. which are public authorities for the purposes of the Act) there shall be inserted, at the appropriate place -

" A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003".

*Interpretation: "financial year" and "member"*

**24.** - (1) If the period beginning with the day on which a development corporation is established and ending with the next 31st March is 6 months or more, the first financial year of the corporation is that period.

(2) Otherwise the first financial year of the corporation is the period beginning with the day on which the corporation is established and ending with the second following 31st March.

(3) In this Schedule "member" means a member of a development corporation.

## SCHEDULE 2

Articles 12 and 20

### ACQUISITION OF LAND

#### PART I

##### ACQUISITION BY THE OFFICE

###### *Compulsory acquisition: vesting orders*

**1.** - (1) Where the Office proposes to acquire land compulsorily it may make an order (a "vesting order") vesting the land in the Office.

(2) The power to make a vesting order in respect of any land by virtue of this paragraph includes power to create and vest in the Office new rights over the land as well as to vest existing rights.

(3) The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16) shall apply to land which the Office has resolved to acquire under this paragraph as it applies to land specified in Article 3(1) of that Order.

###### *Compulsory acquisition: procedure, etc.*

2. - (1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9) shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 1 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act, subject to the following modifications -

(a) for any reference to the Department or the council there shall be substituted a reference to the Office;

(b) for any reference to that Act there shall be substituted a reference to this Order;

(c) paragraph 1 shall be omitted;

(d) in paragraph 2 -

(i) for the words "Notice of the application" there shall be substituted "Notice of the Office's intention to acquire the land compulsorily";

(ii) the words "in such form and manner as the Ministry directs" shall be omitted;

(iii) in sub-paragraph (c) for the words "as may be prescribed" there shall be substituted "as the Department considers fit";

(e) in paragraph 3(1)(b) after the word "held" there shall be inserted the words "by the planning appeals commission or by any other person";

(f) in paragraph 4 the words from "and may provide" onwards shall be omitted;

(g) in paragraph 5 -

(i) in sub-paragraph (1)(a) the words "in the prescribed form and manner" shall be omitted;

(ii) in sub-paragraph (1)(d) the words "in the prescribed form" shall be omitted;

(iii) in sub-paragraph (2) for the words "as may be prescribed" there shall be substituted "as the Office thinks fit";

(h) in paragraph 6(2) for the words from "fund out of which the expenses of the council in acquiring the land are to be defrayed" there shall be substituted "Consolidated Fund" and for the words "out of the compensation fund" there shall be substituted "made by the Office";

(i) in paragraph 11(3) the words "in the prescribed form" shall be omitted;

(j) in paragraph 12 -

(i) in sub-paragraph (1) the words "such" and "as may be prescribed" shall be omitted;

(ii) in sub-paragraph (2) for the words from "clerk" to "directs" substitute "Department as correct, and publish";

(k) in paragraph 14(1) the words "in the prescribed form" shall be omitted;

(l) in paragraph 15(1) for the words "in the prescribed form" there shall be substituted "in such form as may be approved by the Department";

(m) paragraphs 19 and 20(2) shall be omitted.

## PART II

### ACQUISITION BY A DEVELOPMENT CORPORATION

#### *Compulsory acquisition: vesting orders*

**3.** - (1) Where a development corporation proposes to acquire land compulsorily it may apply to the Office for an order (a "vesting order") vesting the land in the corporation and the Office shall have power to make a vesting order.

(2) The power to make a vesting order in respect of any land by virtue of this paragraph includes power to create and vest in the corporation new rights over the land as well as to vest existing rights.

(3) The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16) shall apply to land which a corporation has resolved to acquire under this paragraph as it applies to land specified in Article 3(1) of that Order.

#### *Compulsory acquisition: procedure, etc.*

**4.** - (1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c.9) shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 3 in the same manner as it applies to the ac-

quisition of land by means of a vesting order made under that Act, subject to the following modifications -

(a) for any reference to the council there shall be substituted a reference to the development corporation;

(b) for any reference to the Department concerned there shall be substituted a reference to the Office;

(c) for any reference to that Act there shall be substituted a reference to this Order;

(d) in paragraph 6(2) for the words from "the fund" onwards there shall be substituted "funds of the development corporation (in this Schedule referred to as "the compensation fund"), and shall be discharged by payments made by that corporation"; and

(e) in paragraph 12(2) for "the clerk of the council" there shall be substituted "such person as may be designated for the purposes of this Schedule by the development corporation"; and

(f) paragraphs 19 and 20(2) shall be omitted.

### PART III

#### ACQUISITION OF LAND: GENERAL PROVISIONS

##### *Compulsory acquisition: land belonging to statutory bodies and inalienable land*

5. The power to make a vesting order under this Schedule in respect of land -

(a) which is the property of any statutory body which has power under any statutory provision to acquire land compulsorily; or

(b) which is declared by or under any statutory provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

##### *Compulsory acquisition: land of industrial undertakings*

6. - (1) Nothing in this Schedule shall authorise the acquisition of any land of

an industrial undertaking to which this paragraph applies which is in use for the purposes of that undertaking.

(2) This paragraph applies to an undertaking which provides employment which is substantial having regard to the extent of the land used for its purposes and the nature of the undertaking.

*Compulsory acquisition: land containing historic monuments or archaeological object*

7. - (1) Nothing in this Schedule shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is, to the knowledge of the Office, any historic monument or archaeological object.

(2) In this paragraph "historic monument" and "archaeological object" have the same meanings as in the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9).

*Acquisition of land: powers of entry*

8. - (1) Subject to this paragraph, a person authorised in writing by the Office may, on production if required of his authority, at any reasonable time enter any land -

(a) for the purpose of surveying or examining the land in order to ascertain whether it ought to be acquired by the Office under Article 12; or

(b) in connection with any claim for compensation in respect of any such acquisition.

(2) Subject to this paragraph, a person authorised in writing by a development corporation may, on production if required of his authority, at any reasonable time enter any land -

(a) for the purpose of surveying or examining the land in order to ascertain whether it ought to be acquired by the corporation under Article 20; or

(b) in connection with any claim for compensation in respect of any such acquisition.

(3) No person shall be entitled to exercise a power of entry conferred by this paragraph in relation to any land unless he has given at least 24 hours' notice of the intended entry to the occupier of the land or such lesser period of notice as may be agreed between him and the occupier.

(4) If it is shown to the satisfaction of a justice of the peace on a sworn complaint in writing -

(a) that admission to the land which any person is entitled to enter by virtue of this paragraph, has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency; and

(b) that there are reasonable grounds for entry to the land for any purpose for which entry is required,

the justice may by warrant under his hand authorise that person to enter on the land if need be by force.

(5) Every warrant granted under this paragraph shall continue in force until the purpose for which entry is necessary has been satisfied.

(6) Any person entering any land by virtue of the power of entry conferred by this paragraph or by virtue of a warrant issued under this paragraph -

(a) may take with him such other persons and such equipment as may be necessary; and

(b) on leaving any unoccupied land which he has entered by virtue of such a power of entry or such a warrant shall leave it as effectually secured against trespassers as he found it.

(7) A person who intentionally obstructs any person who enters, or is attempting to enter, land by virtue of the power of entry conferred by this paragraph or by virtue of a warrant issued under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Where in the exercise of the power conferred by this paragraph or in executing any warrant under this paragraph, any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the Office or (as the case may be) the development corporation.

(9) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal.

(10) Any power conferred by this paragraph to survey land shall be construed as including power to ascertain or fix boundaries or to search and bore for the purposes of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil and to take and carry away, for the purpose of examination, specimens of the subsoil.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order.)*

Part II of this Order makes provision for and in connection with the exercise by a designated company of strategic investment functions in relation to the Executive Committee of the Northern Ireland Assembly and statutory bodies.

Part III makes provision for certain sites made available under the reinvestment and reform initiative, including provision for their regeneration.

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## **Annex C Memorandum and Articles of Association**

### **The Companies (Northern Ireland) Order 1986**

#### **COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**

#### **MEMORANDUM OF ASSOCIATION**

**-OF-**

#### **STRATEGIC INVESTMENT BOARD LIMITED**

- 
1. The name of the Company is “STRATEGIC INVESTMENT BOARD LIMITED” (hereinafter called “the Company”).
  2. The registered office of the Company will be situated in Northern Ireland.
  3. The objects for which the Company is established are -
    - (a) to provide advice to the Executive in relation to the formulation and implementation of its programme of major investment projects;
    - (b) to provide advice and assistance (including research, consultancy, advisory and other services) to bodies in relation to the carrying out of their investment projects;
    - (c) in connection with the purposes mentioned at sub-paragraphs (a) and (b) above to advise on the planning and prioritisation of programmes and projects, the funding of projects (including borrowing for that purpose) and the general implementation of projects (including arrangements for procuring implementation wholly or partly by persons other than a statutory body);
    - (d) to assist and participate in the implementation of projects of the kind mentioned in paragraphs (a) and (b) above;

- (e) to publicise the purposes of the company whether in Northern Ireland or elsewhere in a manner consistent with the strategies and policies of the Executive;
- (f) to hold or procure the holding of seminars and courses and to publish or procure or promote the publication or production of books pamphlets exhibitions films audio or visual aids calculated to further the objects of the Company but within the overall context of the wider strategies and policies of the Executive;
- (g) to engage and remunerate agents employ and remunerate such staff as may from time to time be necessary grant pensions and retirement benefits to or for employees or former employees of the Company and to the widows/widowers children and other dependents of deceased employees and pay as subscribed funds or schemes for the provisions of pensions and retirement benefits for employees and former employees of the Company their widows children and other dependents;
- (h) to insure and arrange insurance cover for and to indemnify the officers servants and voluntary workers and those members of the Company from and against all such risks incurred in the performance of their duties as may be thought fit by the Company;
- (i) with the prior approval of the Office to constitute special charitable trusts for any particular purposes of the Company to act as trustee of any special charitable trust whether constituted by the Company or otherwise and generally to undertake and execute any charitable trust which may lawfully be undertaken by the Company and may be conducive to its objects;

- (j) to invest the monies of the Company not immediately required for its purposes in such investments securities as the Office may from time to time approve;
  - (k) to establish and support any charitable associations or institutions and the subscribe or guarantee money for charitable purposes in any way connected with the purposes of the Company or calculated to further its objects;
  - (l) to seek and accept grants from any Government Department, Statutory Body, Local Authority, Bank, or other institution or individual subject to such conditions and restrictions as may be imposed thereon;
  - (m) to borrow or otherwise raise money on such terms as the Company may with the prior approval of the Office determine;
  - (n) to sell improve manage develop exchange lease mortgage charge dispose of turn to account or otherwise deal with all or any part of the real and personal property and rights of the Company;
  - (o) to charge for any services provided by the Company;
  - (p) to draw make accept endorse discount execute and issue cheques promissory notes bills of exchange bills of lading warrants policies debentures and other negotiable instruments and to buy sell or otherwise deal in the same and to receive money deposited at interest or otherwise;
  - (q) to undertake such other business being business which is compatible with the above objects as is deemed appropriate by the Company.
4. The income and property of the Company whencesoever derived shall be applied solely towards the promotion of the Objects of the Company as set forth in this Memorandum of Association and no portion thereof shall be paid or trans-

ferred directly or indirectly to the members of the Company by way of dividend bonus or otherwise howsoever by way of distribution or profit or surplus to the members of the Company Provided that nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any director, officer or servant of the Company in return for any service actually rendered to the Company. Provided further that nothing in this provision shall have effect to preclude the Company from entering into arrangements with the Office whereby any funds or assets of the Company as may from time to time be deemed by the Office to be surplus to the requirements of the Company may be transferred to the Office or as the Office may direct.

5. The liability of the members is limited.
  
6. Every member of the Company undertakes to contribute to the assets of the Company in the event of its being wound up while he/she is a member or within one year after he/she ceases to be a member for payment of the debts and liabilities of the Company contracted before he/she ceases to be a member and of the costs charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves such amount as may be required not exceeding One Pound.

WE the several persons whose names and addresses are subscribed are desirous of being formed into a Company in pursuance of the Memorandum of Association

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**NAMES AND ADDRESSES OF SUBSCRIBERS**

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Dated the                    day of                    2003.

Witness to the above Signatures:-

**The Companies (Northern Ireland) Order 1986**  
**COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE**  
**CAPITAL**

**ARTICLES OF ASSOCIATION**

**-OF-**

**STRATEGIC INVESTMENT BOARD LIMITED**

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**INTERPRETATION**

1. In the Memorandum and these Articles:-

“the Executive” means the Executive Committee of the Assembly and references to the Executive shall be construed in accordance with Article 2(5) of the 2003 Order in the circumstances mentioned in that provision

“the Order” means the Companies (Northern Ireland) Order 1986

“the Seal” means the common seal of the Company

“executed” includes any mode of execution

“Secretary” means any person appointed to perform the duties of the Secretary of the Company including a joint assistant or deputy secretary

“clear days” in relation to a period of notice means that period excluding the day when the notice is given or deemed to be given and the day for which is given or on which it is to have effect

“the United Kingdom” means Great Britain and Northern Ireland

“the Office” means the Office of the First Minister and Deputy First Minister

“the 2003 Order” means the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

“statutory body” has the meaning given in Article 2(2) of the 2003 Order

“major investment projects” has the meaning given it in Article 3(5) of the 2003 Order.

Expressions referring to writing shall unless the contrary intention appears by construed as including references to printing lithography photography and other modes of representing or reproducing words in a visible form.

Unless the context otherwise requires words or expressions contained in these Articles shall bear the same meaning as in the Order or any statutory modification thereof in force at the date at which these Articles become binding on the Company.

### **MEMBERSHIP**

2. The members of the Company shall comprise the Office and such persons (if any) as shall from time to time be appointed as members by the Office;
3. An appointment of a member under sub-paragraph (1) above shall be in writing and shall be for such a period not exceeding three years and on such terms and conditions as may be specified in the appointment;
4. A member may resign at any time by notice in writing to the Company.

### **THE OFFICE**

5. Notwithstanding any provisions of these Articles to the contrary each of the following shall require the prior written consent of the Office and shall not without such consent be done, caused to be done or have effect:-
  - (a) any amendment, removal, alteration of the effect of or replacement of the Memorandum or these Articles or any of them or any provision or provisions contained therein; or

- (b) the voluntary winding-up or dissolution of the Company or any proposal by the Directors therefore, or
- (c) any proposal by the Directors for a voluntary arrangement pursuant to the Insolvency (Northern Ireland) Order 1989.

### **GENERAL MEETINGS**

- 6. All general meetings other than annual general meeting shall be called extraordinary general meetings.
- 7. The directors may whenever they think fit convene an extraordinary general meeting. Extraordinary general meeting shall be convened by the Directors on the requisition of members pursuant to the provisions of the Order or in default may be convened by such requisitionists.

### **NOTICE OF GENERAL MEETINGS**

- 8. An annual general meeting and an extraordinary general meeting called for the passing of a special resolution shall be called by at least twenty-one clear days' notice in writing. All other extraordinary general meetings shall be called by at least fourteen clear days' notice in writing but a general meeting may be called by shorter notice if it is so agreed:-
  - (a) in the case of an annual general meeting by all the members entitled to attend and vote thereat;
  - (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent of the total voting rights of all the members.

The notice shall specify the date, time and place of the meeting and the general nature of the business to be transacted and in the case of an annual general meeting shall specify the meeting as such. The Notice shall be given to all the members and to each the directors and to the auditors of the Company.

9. The accidental omission to give notice of a meeting to or the non-receipt of notice to a meeting by a person entitled to receive notice shall not invalidate the proceedings of that meeting.

### **PROCEEDINGS AT GENERAL MEETINGS**

10. No business shall be transacted at any meeting unless a quorum is present. Two persons entitled to vote upon the business to be transacted each being a member or a proxy for a member or a duly authorised representative of a corporation shall be a quorum.
11. If such a quorum is not present within half an hour from the time appointed for the meeting or if during a meeting such a quorum ceases to be present the meeting shall stand adjourned to the same day in the next week at the same time and place or to such day time and place as the directors may determine.
12. The Chairperson or Deputy Chairperson if any of the board of directors or in their absence some other director nominated by the directors shall preside as chairperson of the meeting but if neither the Chairperson or Deputy Chairperson nor such other director (if any) be present within 15 minutes after the time appointed for holding the meeting and willing to act the directors present shall elect one of their number to be chairperson and if there is only one director present and willing to act he/she shall be chairperson.
13. If no director is willing to act as chairperson or if no director is present within 15 minutes after the time appointed for holding the meeting the members present and entitled to vote shall choose one of their number to be chairperson.

14. A resolution put to the vote of a meeting shall be decided on a show of hands unless before or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the provisions of the Order a poll may be demanded -
- (a) by the Chairperson; or
  - (b) by at least two members having the right to vote at the meeting;
- and a demand by a person as proxy for a member shall be the same as a demand by the member.
15. Unless a poll is duly demanded a declaration by the Chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
16. The demand for a poll may before the poll is taken be withdrawn but only with the consent of the chairperson and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
17. A poll shall be taken as the Chairperson directs and he/she may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
18. In the case of an equality of votes whether on a show of hands or on a poll the chairperson shall be entitled to a casting vote in addition to any other vote he/she may have.
19. A poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time

and place as the chairperson directs not being more than 30 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn the meeting shall continue as if the demand had not been made.

20. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least 7 clear days' notice shall be given specifying the time and place at which the poll is to be taken.
21. A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he/she was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more members.

### **VOTES OF MEMBERS**

22. Every member shall have one vote. Save that in the case of a resolution to dismiss a director the Office shall have the rights to cast such number of votes in respect of any such resolution as shall constitute a majority of the votes capable of being cast at any general meeting of the company at which any such resolution falls to be considered.
23. On a poll votes may be given either personally or by proxy. A proxy must be a member of the Company.
24. The instrument appointing a proxy and the power of attorney or other authority if any under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the Company or at such other place within the United Kingdom as is specified for that purpose in the no-



tice convening the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or in the case of a poll not less than twenty-four hours before the time appointed for the taking of a poll and in default the instrument of proxy shall not be treated as valid.

The instrument appointing a proxy shall be deemed to confer authority to demand or joint in demanding a poll.

- 25. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:-

**STRATEGIC INVESTMENT BOARD LIMITED**

“I/We  
“of  
“in the County of being  
a  
“member/members of the above named Company  
“hereby appoint  
“of  
“or failing him  
“of  
“as my/our proxy to vote for me/us on my/our behalf  
“at the (annual or extraordinary as the case may be)  
“general meeting of the Company to be held on  
“day of 20 and at any adjournment  
“thereof.  
  
“Signed this day of 20 .”

- 26. Where it is desired to afford members of an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or form as near thereto as circumstances admit:-

**STRATEGIC INVESTMENT BOARD LIMITED**

“I/We  
“of  
“in the County of \_\_\_\_\_ being  
a  
“member/members of the above named Company  
“hereby appoint  
“of  
“or failing him  
“of  
“as my/our proxy to vote for me/us on my/our behalf  
“at the (annual or extraordinary at the case may be)  
“general meeting of the Company to be held on the  
“day of \_\_\_\_\_ **20** \_\_\_\_\_ and at any adjournment  
“thereof.

“Signed this \_\_\_\_\_ day of \_\_\_\_\_ **20** \_\_\_\_\_.”

“this form is to be used \_\_\_\_\_ \* in favour of \_\_\_\_\_ the resolution.

\* against

“Unless otherwise instructed the proxy will vote as he thinks fit or abstain from voting

\*Strike out whichever is not desired”.

**CORPORATIONS ACTING BY REPRESENTATIVES**

27. Any corporation which is a member of the Company may, by resolution of its directors or other governing body, or if it is a government department in accordance with the relevant statutory provisions, authorize such person as it thinks fit to act as its representative at any meeting of the Company, or at any separate meeting of the holders of any class of shares. Except provided in these articles, the person so authorized will be entitled to exercise the same power on behalf of the corporation as the corporation could exercise if it were an individual member of the Company, and the corporation will for the purposes of these articles be deemed to be present in person at any such meeting if a person so authorized is present at it.

### **SINGLE MEMBER**

28. At any time when the Company has a single member:-
- (a) Article 10 shall have effect as if for the reference to "Two persons" there was substituted a reference to "One person" and the reference to "each" was omitted,
  - (b) the single member may take any decision which may be taken by the Company in general meeting and shall provide the Company with a written record of any such decision.

### **DIRECTORS**

29. The directors of the Company shall be appointed by the Office and any director so appropriate may from time to time be reappointed by the Office.
30. An appointment of a Director shall be in writing and shall be for such period (not exceeding three years) and on such terms and conditions as may be specified in the appointment.

31. The remuneration of the directors together with the rates at which they are paid travelling hotel and other expenses shall be as from time to time determined by the Office.

### **POWERS OF DIRECTORS**

32. Subject to the provisions of the Order the memorandum and the articles and to any directions given by special resolution the business of the company shall be managed by the directors who may exercise all the powers of the company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the directors by the articles and a meeting of the directors at which a quorum is present may exercise all powers exercisable by the directors.
33. The directors may by powers of attorney or otherwise appoint any person to be the agent of the company for such purposes and on such conditions as they determine including authority for the agent to delegate all or any of his powers.

### **DELEGATION OF DIRECTORS' POWERS**

34. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

## **DISQUALIFICATION AND REMOVAL OF DIRECTORS**

35. The office of a director shall be vacated if -
- (a) he/she ceases to be a director by virtue of any provision of the Order or he/she becomes prohibited by law from being a director; or
  - (b) he/she becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (c) he/she is or may be suffering from mental disorder and either -
    - (i) he/she is detained for treatment within the meaning of Article 12(5) of the Mental Health (Northern Ireland) Order 1986 or
    - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his/her detention or for the appointment of a controller receiver curator bonis or any other person to exercise powers with respect to his/her property or affairs; or
  - (d) he/she resigns his/her office by notice to the company;
  - (e) he/she shall have been absent for three successive meetings of the directors without the permission of the directors and the directors resolve that his office be vacated; or
  - (f) he/she is removed from office by the Office.

## **DIRECTORS APPOINTMENT AND INTERESTS**

36. Subject to the provisions of the Order and provided that he/she has disclosed to the directors the nature and extent of any material interest of his/her a director notwithstanding his/her office -
- (a) may be party to or otherwise interested in any transaction or arrangement with the company or in which the company is otherwise interested;
  - (b) may by be a director or other officer of or employed by or a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the company or in which the company is otherwise interested; and
  - (c) shall not by reason of his/her office be accountable to the company for any benefit which he/she derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
37. For the purposes of Article 36
- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class or persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
  - (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his/her.

## **PROCEEDINGS OF DIRECTORS**

38. (a) Subject to the provisions of the articles the directors may regulate their proceedings as they think fit. A director may and the secretary at the request of a director shall call a meeting of the directors. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes the Chairperson shall have a second or casting vote.
- (b) Notice of any meeting of the directors may be given by telephone or by e-mail and the agenda and accompanying papers relating to any meeting of the directors may be sent by fax, e-mail or any other electronic means and all or any of the directors or any committee of the directors may participate in a meeting of the directors or that committee by means of a conference telephone, video conferencing equipment or any communication equipment which allows all persons participating in the meeting to hear and speak to each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairperson of the meeting then is, so long as:
- (i) the directors who are present at the meeting subject as hereinafter mentioned constitute a quorum;
  - (ii) at the commencement of the meeting each director acknowledges the present of all other directors taking part;
  - (iii) each of the directors taking part and the company secretary are able to hear or in the case of e-mail are connected on line with each other of them subject as hereinafter mentioned throughout the meeting;

- (iv) the meeting shall be deemed to have been conducted validly notwithstanding accidental disconnection during the meeting, and the proceedings thereof shall be deemed to be as valid as if there had not been any disconnection;
  - (v) and a minute of the proceedings shall be sufficient evidence thereof and of the observance of all necessary formalities if certified by the Chairman.
- (c) A resolution agreed by all the directors by telephonic communication, telex, facsimile transceiver, telegraph, computer or by any other electronic or like means will be valid if such resolution is signed by the Chairperson and is expressed to be passed pursuant to this provision.
39. The quorum for the transaction of the business of the directors shall be four save that the Chairperson and Chief Executive Officer of the Company under whatever designation shall together also constitute a quorum for the transaction of any such business.
40. The first Chairperson shall be appointed by the Office from among the directors for a period not exceeding one year upon such terms and conditions as may be specified by the Office. Thereafter the Chairperson shall be elected from among the directors for such period and upon the same terms and conditions as the directors may determine. If the Chairperson is unwilling to preside or is not present within 15 minutes after the time appointed for the meeting the directors present may appoint one of their number to be chairperson of the meeting.
41. All acts done by a meeting of directors or of a committee of directors or by a person acting as a director shall notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office or had vacated office or were not entitled to vote be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

42. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors.
43. Save as otherwise provided by the articles a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he/she has directly or indirectly any interest or duty which is material and which conflicts or may conflict with the interests of the company unless his/her interest or duty arises only because the case falls within one or more of the following paragraphs:-
- (a) the resolution relates to the giving to him/her of a guarantee security or indemnity in respect of money lent to or an obligation incurred by him/her for the benefit of the company or any of its subsidiaries;
  - (b) the resolution relates to the giving to a third party of a guarantee security or indemnity in respect of an obligation of the company or any of its subsidiaries for which the director has assumed responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
  - (c) his/her interest arises by virtue of his subscribing or agreeing to subscribe for any debentures of the company or any of its subsidiaries or by virtue of his being or intending to become a participant in the underwriting or sub-underwriting of an offer of any such debentures by the company or any of its subsidiaries for subscription purchase or exchange;
  - (d) the resolution relates in any way to a retirement benefits scheme which has been approved or its conditional upon approval by the Board of Inland Revenue for taxation purposes.

For the purposes of this regulation an interest of a person who is for any purpose of the Order (excluding any statutory modification thereof not in force when this regulation becomes binding on the company) connected with a director shall be treated as an interest of the director.

44. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he/she is not entitled to vote.
45. The company may by ordinary resolution suspend or relax to any extent either generally or in respect of any particular matter any provision of the articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
46. In a question arises at a meeting of directors or a committee of directors as to the right of a director to vote the question may before the conclusion of the meeting be referred to the chairperson of the meeting and his/her ruling in relation to any director other than himself/herself shall be final and conclusive.

#### **SECRETARY**

47. Subject to the provisions of the Order the secretary shall be appointed by the directors for such term at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### **MINUTES**

48. The directors shall cause minutes to be made in books kept for the purposes -
  - (a) of all appointments of officers made by the directors; and

- (b) of all proceedings at meetings of the company and of the directors and of committees of directors including the names of the directors present at each such meeting.

### **THE SEAL**

49. The seal shall only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director.

### **ACCOUNTS**

50. (i) No member (other than the Office) shall (as such) have any right of inspecting any accounting records or other book or document of the company except as conferred by statute or authorised by the directors or by ordinary resolution of the company.
- (ii) True accounts shall be kept of the sums of money received and expended by the Company and the matters in respect of which such receipts and expenditure take place and of the property credits and liabilities of the Company; and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the Company for the time being in force shall be open to the inspection of the officers of the Company. Once at least in every year the accounts of the Company shall be examined and the correctness of the balance sheets ascertained by one or more properly qualified Auditor or Auditors.
- (iii) The Comptroller and Auditor General for Northern Ireland shall have such access to the documents and records of the Company as he has in

relation to a body to which Article 8 of the Audit (Northern Ireland) Order 1987 applies.

### **NOTICES**

51. Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.
52. The company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. A member whose registered address is not within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address but otherwise no such member shall be entitled to receive any notice from the company.
53. A member present either in person or by proxy at any meeting of the company shall be deemed to have received notice of the meeting and where requisite of the purpose for which it was called.
54. Proof that an envelope containing a notice was properly addressed prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.

### **WINDING UP**

55. If the company is wound up the surplus assets of the company shall be dealt with as the Office may direct.

### **INDEMNITY**

56. Subject to the provisions of the Order but without prejudice to any indemnity to which a director may otherwise be entitled every director or other officer or auditor of the company shall be indemnified out of the assets of the company against any liability incurred by him/her in defending any proceedings whether civil or criminal in which judgment is given in his/her favour or in which he/she is acquitted or in connection with any application in which relief is granted to him/her by the court from liability for negligence default breach of duty or breach of trust in relation to the affairs of the company.

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**NAMES AND ADDRESSES OF SUBSCRIBERS**

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Dated the                      day of                      2003.

Witness to the above Signatures:-