

GENERAL SCHEME

OF

LAND DEVELOPMENT AGENCY BILL 2020

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PART 1

PRELIMINARY AND GENERAL

This Part contains provisions normally included in legislation in relation to short title, collective citation, construction, interpretation, the making of regulations, repeals and the construction of enactments.

Head 1 Short title, collective citation and commencement

Provides that:

- (1) This Bill may be cited as the Land Development Agency Bill 2020.
- (2) This Bill shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) Other collective citations as appropriate shall be included.

Notes:

This Head contains the standard provisions about short title and collective citation for a listing of acts included or previously included in the collective citation.

Head 2 Interpretation

Provides that:

In this Bill-

“affordable housing” has the meaning set out in Head 8;

“2018 Regulations” means Land Development Agency (Establishment) Order 2018, S.I. No 352 of 2018, as amended by Land Development Agency (Amendment) Order 2018, S.I. No 603 of 2018;

“commercial basis” means an activity that endeavours to obtain a financial return [or a long-term social return] for the State;

“Companies Act” means the Companies Act 2014;

“dissolution day” means the day appointed by order under Head 33 to be the dissolution day;

“dissolved body” has the meaning set out at subhead 33(2);

“Minister” means Minister for Housing, Local Government and Heritage;

“Land Development Agency” or the “LDA” means the body formed under Head 5;

“LDA subsidiary” means any other body corporate and any trust, partnership, arrangement for the sharing of profits and losses, joint venture, association, syndicate or other arrangement, formed, registered, incorporated or established by the LDA for the purposes of performing functions under this Bill;

“other lands” means land not in the ownership of a relevant public body;

“relevant public body” means each of the following:

- (a) a Minister of the Government;

- (b) a local authority for the purposes of the Local Government Act 2001;
- (c) the Permanent Defence Force;
- (d) the Health Service Executive;
- (e) an education and training board established under the Education and Training Boards Act 2013;
- (f) any other body established
 - (i) by or under enactment, or
 - (ii) under the Companies Act in pursuance of powers conferred by or under enactment, and financed wholly or partly by means of monies provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held or by on behalf of a Minister of the Government;
- (g) any other body that is wholly or partly funded directly [or indirectly] out of monies provided by the Oireachtas or from the Central Fund or the growing produce of that Fund; or
- (h) any subsidiary, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which paragraph (c), (e) or (g) relates;

“relevant public lands” means all lands, within or contiguous to the built up area of any census town with a population of 10,000 people or more in the last census in the ownership or control of a relevant public body.

Notes:

This is a standard provision to set out interpretations for the terms used in this Bill.

Further interpretations may be included during the drafting process.

Head 3 Regulations

Provides that:

- (1) The Minister may make regulations prescribing any matter or thing which is referred to in this Bill as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any provisions to have full effect.
- (2) Every regulation under this Bill shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Notes:

This Head enables the Minister to make regulations as provided in the Bill.

Head 4 Expenses of the Minister

Provides that:

- (1) The expenses incurred by the Minister in the administration of this Bill shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Notes:

This is a standard provision enabling expenses of the Minister in the administration of the Bill to be paid out of moneys provided by the Oireachtas subject to the sanction of the Minister for Public Expenditure and Reform.

PART 2

The Land Development Agency

This Part provides for the formation of the Land Development Agency, and sets out provisions in relation to its formation, directions from Minister, the objects and functions of the LDA, its board and any services, systems and staff that may be provided to it.

Head 5 Formation of the LDA

Provides that:

- (1) There is established, on the establishment day, a body to be known as the Land Development Agency, to perform the functions assigned to it by this Bill.
- (2) The Land Development Agency shall be a body corporate with perpetual succession. The Land Development Agency has power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of other property.
- (3) Except where otherwise provided by this Bill, the Land Development Agency is independent in the performance of its functions under this Bill.

Notes:

The Land Development Agency has been established as a State body, under the Local Government (Corporate Bodies) Act, 1971 as amended (Statutory instruments SI 352/2018 and SI 603/2018 refer).

This Bill seeks to place the LDA on a primary statutory footing and so this Head provides for the establishment of the LDA which will be independent in the performance of its functions. The functions of the LDA established under the relevant statutory instruments will transfer to the LDA as established under this Bill.

Head 6 Directions from Minister

Provides that:

- (1) The Minister may issue directions of a general policy nature as he or she considers appropriate, in writing to the LDA:
 - (a) for any purpose relating to this Act; or
 - (b) concerning any matter or thing referred to in this Act as specified or to be specified, or as determined or to be determined, by the Minister.
- (2) The Minister may, by written direction, amend or revoke any direction issued by the Minister under this Act.
- (3) The LDA shall comply with a direction issued by the Minister under this Act.
- (4) The LDA's Annual Report shall report on compliance with any directions issued under this Head.

Notes:

This Head provides that the Minister may issue general policy directions to the LDA in the operation of its functions, that the LDA must follow these directions and that the LDA, in its annual report, will report on its progress in giving effect to these directions.

Head 7 Objects of the LDA

Provides that:

- (1) The principal objects of the LDA are:
 - (a) to perform the functions assigned to the LDA by this Bill;
 - (b) to drive strategic land assembly, to enable the sustainable development of new and regenerated communities, well served by essential services and in this regard:
 - (i) develop land for housing or other related development purposes on relevant public lands and other lands in support of the implementation of the National Planning Framework;
 - (ii) to provide services to local authorities in relation to the planning and development of land predominantly for purposes of housing provision; and
 - (iii) to establish mechanisms and collaborative structures between public and private entities to develop relevant public lands and other lands;
 - (c) to develop sustainable communities, with a particular focus on enhancing the stock of climate resistant, low carbon and affordable housing and in this regard:
 - (i) establish structures to facilitate delivery of housing on relevant public lands and other lands; and
 - (ii) to support the delivery of affordable housing in line with government policy on the use of relevant public lands.
- (2) In the pursuit of the principal objects of the LDA under subhead (1), the LDA shall have regard to the policy of the Government on proper planning and sustainable development, and shall endeavour to:
 - (a) contribute to the economic and social development of the State; and
 - (b) enhance the competitiveness of the economy of the State, including encouragement of innovation in housing design, master planning and construction methods.
- (3) In support of the implementation of the National Planning Framework and the management of relevant public lands:

- (a) to advise the Government, and the Minister as appropriate, on matters relating to the management and use of relevant public lands; and
 - (b) to establish and maintain a database of relevant public lands as set out in Part 7, in order to implement the National Planning Framework.
- (4) This head does not prevent or restrict the LDA Board agreeing other objects and powers, consistent with this Bill, that are reasonable, necessary or proper for, or incidental or ancillary to, the due attainment of the principal objects of the LDA, subject to the agreement of the Minister.

Notes:

This Head sets out what are to be the main objects of the LDA.

The objectives of the LDA are to:

- (a) Drive urban development/regeneration projects by co-ordinating the identification and development of lands owned by Government Departments, agencies, commercial state bodies and local authorities which are deemed to be of strategic importance, as well as facilitating co-operation with private landowners or use of CPO powers to unlock key publically owned sites; and
- (b) To facilitate the provision of all forms of housing, including unlocking social and affordable housing on lands owned by relevant public bodies made available to the LDA.

These objectives are set in the context of the National Planning Framework to achieve more compact urban development, while at the same time delivering better land supply and hence increased housing affordability.

A particular focus of the LDA will be on the building of sustainable communities and encouraging the development of climate resilient, low carbon and affordable housing.

Head 8 Affordable Housing Provision by the LDA

Provides that:

- (1) “Affordable housing” means any dwelling provided by the LDA for rent or purchase below the prevailing market price or rent in the local authority areas.

- (2) For the purpose of this head
 - (a) The prevailing market price is the mean price in the relevant county according to the Residential Property Price Index published by the Central Statistics Office for the month immediately preceding the lodging of a planning application for the site.

 - (b) The prevailing market rent is the standardised average rent for the relevant county according to the Rent Index published by the Residential Tenancies Board for the quarter immediately preceding the lodging of a planning application for the site.

Notes:

This Head sets out the definition of affordable housing for the purposes of the LDA legislation by reference to the average cost of renting or purchasing in the local authority area in which the lands are situated.

Head 9 Public Functions of the LDA

Provides that:

- (1) The LDA shall do all things necessary and reasonable to further its objects.
- (2) In support of the implementation of the National Planning Framework and the management of publicly owned lands, the LDA shall undertake the following functions:
 - (a) establish and maintain a database of relevant public lands;
 - (b) advise the Government, and the Minister as appropriate, on the management and use of relevant public lands;
 - (c) advise the Government, and the Minister as appropriate, on the provision of publicly owned infrastructure for the development of relevant public lands and other lands;
 - (d) draw up master plans and planning submissions for development on relevant public lands and other lands; and
 - (e) provide services to local authorities for the provision of housing and related developments, as set out in Head 12.
- (3) In support of the implementation of the National Planning Framework and the management of publicly owned lands, and in pursuit of the functions set out in (2), the LDA may undertake the following functions:
 - (a) develop, or facilitate the development of large scale local authority sites for housing and where appropriate mixed development, the tenure mix of housing on such developments to be determined in conjunction with the relevant housing authority;
 - (b) develop lands in the ownership of the LDA for the purposes of affordable housing;
 - (c) obtain development consents, permissions and other approvals for land and related development projects;
 - (d) enter into such contracts and commercial arrangements necessary to meet its principal objectives;
 - (e) acquire lands in public and private ownership;
 - (f) dispose of lands where they are no longer required to enable the LDA to undertake its functions; and
 - (g) raise capital through equity investment and borrowings.
- (4) The LDA shall also perform any other duties or discharge any other responsibilities imposed on it by this Bill.

(5) The LDA shall discharge the functions conferred on the dissolved body by the 2018 Regulations.

Notes:

This Head sets out what are to be the main functions of the LDA.

In line with the objects of the LDA, its functions comprise both economic activities and non-economic public functions.

The LDA's non-economic public functions are consequent to its general purpose and supporting of the overall objective of the NPF in terms of the effective strategic and centrally managed approach to realise the development of the overall portfolio of State owned and/or influenced lands. These functions, which are tasks performed in the public interest as part of the essential functions of the State consist of:

- Advising the Government, and the Minister for Housing as appropriate, on matters relating to the management and use of public lands;
- Establishing and maintaining a database of public lands;
- The provision of site-specific infrastructure and site servicing;
- Assisting local authorities in the performance of their role as housing authorities in line with the current functions of the LDA; and
- Provision of affordable housing on lands in the ownership of the LDA.

Head 10 Economic Functions of the LDA

Provides that:

- (1) Without limiting its responsibilities under Head 9, the LDA may undertake the following functions on a commercial basis:
 - (a) to develop housing on relevant public lands and other lands;
 - (b) to pursue joint ventures with third parties to facilitate the development of housing;
 - (c) to create investment vehicles to facilitate the development of land;
 - (d) to enter into commercial arrangements for the development of lands in private ownership, as appropriate within its mandate; and
 - (e) to create investment vehicles to facilitate the delivery and management of cost and affordable rental housing.

Notes:

The economic functions shall be carried out by subsidiary companies to be established under Part 4.

The main economic activities of the LDA will be carried out on commercial terms and include:

- the acquisition of publicly-held and privately-held land;
- the direct and/or indirect development of land for housing and other purposes; and
- the sale and/or rental of developed land.

Head 11 LDA as a Development Agency

Provides that:

- (1) The Planning and Development Act 2000 is amended at Section 165 in the definition of “development agency” by substituting “the Land Development Agency, a local authority or such other person as may be prescribed by the Minister for the purposes of this Part;” for “a local authority or such other persons as may be prescribed by the Minister for the purposes of this Part;”.

Notes:

This Head provides that the LDA will be a development agency under the Planning and Development Acts.

The purpose of this is to facilitate the making of a planning scheme by the LDA for sites that are designated as strategic development zones. Any such planning scheme will include a written statement, a plan indicating the manner in which it is intended that the site is to be developed, and any likely environmental impacts of implementing the planning scheme.

Head 12 Services to Local Authorities

Provides that:

- (1) A local authority may seek the services of the LDA for the development of sites for housing and urban development that are
 - (a) large scale, multi tenure and mixed-use development sites;
 - (b) in large urban settings with a city and contiguous suburban area local population of greater than 50,000 people; and
 - (c) sites not normally developed by the local authority.

- (2) These services may include: -
 - (a) master-planning and development appraisal of sites
 - (b) obtaining development consents, permissions and other approvals for land
 - (c) provision of infrastructure to service sites for housing
 - (d) delivery of housing and ancillary works as part of a wider urban development
 - (e) management of cost rental housing
 - (f) other services as may be agreed between the local authority and the LDA.

- (3) The LDA shall accede to such a request from the chief executive of a local authority where the service requested is compatible with the functions/objects of the LDA.

- (4) If the LDA cannot provide the requested services, it shall bring it to the attention of the Minister who shall issue a direction having regard to:
 - (a) the suitability of the development;

 - (b) whether the local authority can develop the site without the assistance of the LDA; and

 - (c) the capacity of the LDA to undertake the project having regard to its available resources.

- (5) The LDA shall provide these services under this Head to local authorities on a cost recovery basis.

Notes

The LDA shall provide services to local authorities in line with its existing powers under the Establishment Order and Local Government Services (Corporate Bodies) Act 1971, as amended.

A local authority can request the LDA to provide services for the development of complex, large scale, multi tenure sites. It is not intended that the LDA would provide such services for sites that would normally be developed by a local authority.

The LDA will be obliged to provide these services but it can request the Minister to issue a direction on the matter if it considers that the site is not suitable for development, can be developed by the local authority, or that the LDA does not have the available resources to develop it.

The delivery of services to local authorities by the LDA, in this statutory form, will be performed on a cost recovery basis.

Head 13 Functions of the Board

Provides that:

- (1) The functions of the Board shall be: -
 - (a) to ensure that the functions of the LDA are performed effectively and efficiently
 - (b) to set the strategic objectives and targets to be met by the LDA
 - (c) to ensure that appropriate systems and procedures are in place to achieve the targets and objectives
 - (d) to take all reasonable steps available to it to achieve its targets and objectives.
- (2) Without prejudice to the responsibility of the Board for the functions conferred on it the Board may delegate any of its functions as it considers appropriate or expedient for the purposes of this Bill.
- (3) The Board of the LDA shall at all times exercise due care, skill, prudence and diligence, acting in good faith, in the discharge of its functions under this Bill.

Notes:

This Head provides for the functions of the Board.

Head 14 Membership of the Board

Provides that:

- (1) The Board of the LDA shall consist of at least five and not more than ten directors (including its chairperson), each of whom shall be appointed by the Minister.
- (2) In making such appointments, the Minister will have regard to the need for the Board to include persons, who in the opinion of the Minister, have satisfactory experience, competence or qualifications as respect to issues relating to housing, finance, governance and construction delivery generally.
- (3) The Minister shall appoint one of the directors of the LDA to be its chairperson.
- (4) The Chief Executive Officer of the LDA shall at all times be an ex-officio member of the Board but may not be chairperson.
- (5) The term of office of directors, other than the Chief Executive Officer of the LDA, shall be five years.
- (6) Of the first appointed members, the Minister shall appoint 2 members for a term of office of 3 years and [3] members for a term of office of 4 years.
- (7) A director is not eligible to be serve for more than 2 consecutive terms of office.

Notes:

This Head provides for the composition of the Board. It provides that the Chief Executive Office of the LDA will be a member of the Board but may not be Chairperson.

It provides that the term of office will be five years and a director cannot serve more than 2 terms. It also provides for staggered terms of offices for the first board so not all directors are replaced at the same time.

Head 15 Nomination and Remuneration etc., of Chairperson

Provides that:

- (1) The Chairperson of the LDA shall be appointed by the Minister.
- (2) The Minister, with the consent of the Minister for Public Expenditure and Reform, shall determine the remuneration and expenses to be paid to the Chairperson.

Notes:

This Head deals with the nomination of the Chairperson of the LDA and the remuneration to be paid to him/her.

Head 16 Remuneration of members

Provides that:

- (1) The Minister, with the consent of the Minister for Public Expenditure and Reform, shall determine the remuneration and expenses to be paid to the members.

Notes:

This Head deals with the remuneration and expenses of Board members.

Head 17 How appointed members cease to hold office

Provides that:

- (1) Members are to be disqualified or removed by the Minister in circumstances where a member:
- (a) is adjudicated bankrupt;
 - (b) makes a composition or arrangement with creditors;
 - (c) is sentenced by a court of competent jurisdiction to a term of imprisonment;
 - (d) is disqualified or restricted from being a director of any company;
 - (e) is convicted of any indictable offence in relation to a company;
 - (f) accepts a nomination as a member of Seanad Éireann;
 - (g) is elected to either House of the Oireachtas or to the European Parliament;
 - (h) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to that Parliament; or
 - (i) becomes a member of a local authority.

Notes:

This head deals with the disqualification of the LDA board members.

Head 18 **Audit committee, credit committee, finance committee, risk-management committee and advisory committees**

Provides that:

- (1) The Board of the LDA shall, subject to this Bill –
 - (a) as soon as practicable following the establishment day, establish an Audit Committee, a Credit Committee, a Finance Committee and a Risk Management Committee and approve the terms of reference of each such committee
 - (b) the Board may also:
 - (i) establish committees of the Board consisting of two or more members of the Board either solely or together with one or more staff of the LDA;
 - (ii) determine the procedure and define the functions and powers of any such committees.
- (2) The Chairman shall not be a member of the Audit Committee of the LDA.
- (3) The Board may, with the consent of the Minister, establish committees to assist and advise it in the performance of any of its functions, each such committee shall be an advisory committee. Advisory committees may include members who are not members of the Board, provided that such members shall comprise no more than 40% of any such committee. The Board may, with the consent of the Minister and the Minister for Public Expenditure and Reform, remunerate members of advisory committees who are not members of the Board or staff of the LDA.

Notes:

This Head deals with the provision for two types of committees

- (a) subcommittees of the Board which may not include non-LDA staff or Board Members, and
- (b) advisory committees where outside advisors can contribute to the advice provided to the Board.

Head 19 Disclosure of interests by members of Board

Provides that:

- (1) Where at a meeting of the board any of the following matters arises, namely—
 - (a) an arrangement to which the LDA is a party or a proposed such arrangement,
or
 - (b) a contract or other agreement with the LDA or a proposed such contract or other agreement,then, any board member present at the meeting who otherwise than in his or her capacity as such board member has a material interest in the matter shall—
 - (i) at the meeting disclose the fact of such interest and the nature thereof to the other board members present,
 - (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
 - (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
 - (iv) take no part in any deliberation relating to the matter, and
 - (v) not vote on a decision relating to the matter.
- (2) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the board member by whom the disclosure is made shall not be counted in the quorum for the meeting.
- (3) Where at a meeting of the board members a question arises as to whether or not a course of conduct, if pursued by a board member, would constitute a failure by him or her to comply with the requirements of subsection (1), the question may, subject to subsection (4), be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.
- (4) Where, at a meeting of the board members, the chairperson of the meeting is the board member in respect of whom a question to which subsection (3) applies fails to be determined, then the other board members attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(5) (a) Where the Minister is satisfied that a board member has contravened subsection (1), the Minister may, if he or she thinks fit, direct the Board to remove that board member from office and the Board shall comply with such direction.

(b) Where a person is removed from office pursuant to a direction under this subsection, he or she shall thenceforth be disqualified for being a board member.

Notes:

This Head ensures that Board members' interests are disclosed and recorded where relevant issues are being discussed/decided by the Board of the LDA.

Head 20 Meetings and procedures of the Board

Provides that:

- (1) The LDA Board shall hold such and as many meetings as may be necessary for the performance of its functions, with a minimum of six meetings per year.
- (2) The chairperson may, at any time, call a meeting of the Board.
- (3) The quorum for a meeting of the Board shall be three.
- (4) At a meeting of the Board-
 - (a) The chairperson of the Board shall, if present, be the chairperson of the meeting, and
 - (b) If and so long as the chairperson of the Board is not present or if the office of the chairperson is vacant, the members of the Board who are present shall choose one of their members to be chairperson of the meeting.
- (5) At a meeting of the Board—
 - (a) All or any of the Board members or members of a Committee can take part in a meeting of the Board or a Committee as the case may be, by the use of conference telephone, video-conferencing or other telecommunications equipment designed to allow all persons participating to hear each other speak (an “Electronic Meeting”).
 - (b) A person taking part in this way will be counted as being present at the meeting, and an Electronic Meeting will be considered to be a meeting of the Board or of a Committee as the case may be. Details of such means of attendance shall be recorded in the minutes.
 - (c) Further details governing the taking part in meetings of the Board of Committees of the Board may be set out in Standing Orders of the Board.
- (6) At a meeting of the Board each member present, including the chairperson, shall have a vote and any question on which a vote is required in order to establish the Board’s view on the matter shall be determined by a majority of votes of the members present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have the casting vote.
- (7) The Board may act notwithstanding one or more vacancies among its members.
- (8) Subject to this Bill, the Board shall regulate, by standing orders or otherwise, the procedure and business of the Board.

Notes:

This Head deals with standard provisions governing the operation of meetings of the Board of the LDA. It also includes provision for members to attend meetings electronically.

Head 21 Seal of the LDA

Provides that:

- (1) As soon as may be after its establishment, the LDA shall provide itself with a seal.
- (2) The seal of the LDA shall be authenticated by the signature of the Chief Executive Officer or by the signature of a person employed by the Agency who is authorised by the Board to act in that behalf.

Notes:

This Head provides that the LDA will have a seal and provides for the arrangement for its authentication.

Head 22 Staff of the LDA

Provides that:

- (1) The LDA may appoint such and so many persons to be members of its staff as it may from time to time determine.
- (2) The terms and conditions of the staff of the LDA appointed under this section shall be such as may be determined from time to time by the LDA.
- (3) There shall be paid by the LDA to the members of its staff appointed under this section such remuneration and allowances as from time to time the LDA determines.
- (4) The LDA shall, in determining the remuneration or allowances for expenses to be paid to members of its staff appointed under this section or the other terms or conditions subject to which such members hold or are to hold their employment, have regard to Government or nationally agreed guidelines that are for the time being extant and to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, the LDA shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the LDA with the consent of the Minister for Public Expenditure and Reform.
- (5) The LDA may prepare and submit to the Minister a scheme or schemes or may make such other arrangements with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform for the granting of superannuation benefits to staff of the LDA.

Notes:

This Head provides that the LDA may appoint staff with such terms and conditions as the Agency may determine. It also provides that the LDA will provide a superannuation scheme for its employees.

Head 23 Chief Executive of the LDA

Provides that:

- (1) There shall be a Chief Executive of the LDA (who shall be known as and is referred to in this Bill as “the Chief Executive”).
- (2) The first Chief Executive shall be the existing CEO of the dissolved body and shall be appointed by the Minister for a period not exceeding 7 years.
- (3) The first Chief Executive may be removed from office, by the Board of the LDA, after consultation with the Minister.
- (4) Each subsequent Chief Executive shall be appointed and may be removed from office by the Board of the LDA after consultation with the Minister.
- (5) The functions of the Chief Executive shall be to:
 - (a) carry on, manage and control generally the administration of the LDA;
and
 - (b) advise the directors of the LDA in relation to the performance of the LDA.
- (6) The Chief Executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances) as may be determined by the Minister with the consent of the Minister for Public Expenditure and Reform.

Notes:

This Head provides for the appointment of a chief executive of the LDA. This is a standard provision relating to Ministerial consent to the terms and conditions of the chief executive.

Head 24 Disclosure of interests by staff of LDA

Provides that:

- (1) Where a member of the staff of the LDA has a material interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement to which the LDA is a party, or any proposed such contract, agreement or arrangement, that person shall—
 - (a) disclose to the LDA his or her interest and the nature thereof,
 - (b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the LDA or members of the staff of the LDA in relation thereto, and
 - (c) neither influence nor seek to influence a decision to be made in relation to the matter nor make any recommendation in relation to the contract, agreement or arrangement.
- (2) Subhead (1) shall not apply to contracts or proposed contracts of employment of members of the staff of the LDA with the LDA.
- (3) Where a person contravenes this head the LDA may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment.

Notes:

This Head ensures that staff interests are disclosed and recorded where relevant issues are being discussed/decided by the LDA.

Head 25 Indemnification of Board members and staff of LDA

Provides that:

- (1) This section applies to the following persons:
 - (a) each member of the Board;
 - (b) each member of a committee established under Head 18;
 - (c) each member of staff of the LDA; and
 - (d) a director of a LDA subsidiary.
- (2) Where the Board is satisfied that a person to whom this section applies has discharged the functions appropriate to that person in relation to the functions of the LDA in good faith, the LDA shall indemnify that person against all actions or claims however they arise in relation to the discharge by that person of those functions.
- (3) The Board shall not be prevented from revoking an indemnity granted to, or recovering any payment made pursuant to such an indemnity from, a person who is subsequently found to have carried out his or her duties in bad faith.

Notes:

The purpose of this Head is to indemnify Board members, staff and directors of subsidiaries in the case that they are personally sued by third parties in the performance of their roles in good faith.

PART 3

Funding of LDA

Head 26 Amendment of National Treasury Management Agency (Amendment) Act 2014

Provides that:

(1) The National Treasury Management Agency (Amendment) Act, 2014 is amended

(a) by inserting after section 42A the following —

“42B Funding of the Land Development Agency.

(1) Notwithstanding any other provision of this Bill, the Minister may direct the Agency to—

(a) provide funding to the LDA or any LDA subsidiary on terms or conditions specified in the direction,

(b) exercise, on the terms and conditions specified in the direction, any rights attaching to such funding arrangement,

(c) terminate or dispose of, on the terms and conditions specified in the direction, the funding arrangement,

(2) The total amount - (a) provided under subsection (1)(a), and (b) paid under subsection (1)(d), shall not at any time exceed €1,250,000,000.

(3) For the purpose of calculating the amount referred to in subsection (2), the equivalent in the currency of the State of amounts loaned or paid in a currency other than the currency of the State shall be calculated at the rate of exchange prevailing at the time the calculation is made.

(4) For the purposes of subsection (3), where the European Central Bank has published—

(a) a Euro Foreign Exchange Reference Rate, or

(b) a rate expressed by the European Central Bank to replace that rate,

which is applicable to the currency concerned and the time the calculation concerned is made, that rate shall be taken to be the rate of exchange prevailing at that time for that currency.

(5) Interest on any borrowings, liabilities and obligations of the LDA or any LDA subsidiary shall not be taken into account in calculating the value of the amount referred to in subsection (2).

(6) The Agency shall comply with a direction given under subsection (1).

(7) In this section 'LDA' and 'LDA subsidiary' have the same meanings as they have in the Land Development Agency Act 2020."

and

(b) Section 37 of the National Treasury Management Agency (Amendment) Act 2014 is amended, in the definition of "directed investment" by substituting for paragraph (a) the following:

"(a) an investment made by the Agency pursuant to a direction under section 42, 42A, 42B or 47(4)(b) or the proceeds held by the Agency pursuant to a direction under section 47(4)(c);".

Notes:

This Head amends the National Treasury Management Agency (Amendment) Act 2014 to provide that the Minister for Finance may direct the NTMA to provide funding to the LDA, if required.

Head 27 Borrowing by LDA

Provides that:

- (1) For the purpose of borrowing, the LDA and any subsidiary may, subject to the consent of the Minister and the Minister for Public Expenditure and Reform, and Minister for Finance create and issue bonds, debentures and other securities, bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as the LDA and any subsidiary, as the case may be, thinks fit.
- (2) The LDA and any subsidiary shall exercise the powers conferred by this head so that the total aggregate amount of principal which the LDA and any subsidiary may at any particular time be liable to repay on foot of any liability or liabilities incurred as a result of the exercise of a power under this head shall not exceed [amount to be finalised in consultation with Department of Finance].
- (3) For the purposes of subhead (4), where the European Central Bank has published—
 - (a) a Euro Foreign Exchange Reference Rate, or
 - (b) a rate expressed by the European Central Bank to replace that rate,which is applicable to the currency concerned and the time the calculation concerned is made, that rate shall be taken to be the rate of exchange prevailing at that time for that currency.
- (4) For the purpose of calculating the total amount of principal referred to in subhead (2), no account shall be taken of money loaned to the LDA or a subsidiary in accordance with a direction of the Minister for Finance under section 42B (inserted by Head 26) of the National Treasury Management Agency (Amendment) Act 2014.

Notes:

This Head provides that the LDA or any subsidiary may borrow money in any currency through any type of debt it sees as appropriate. It limits the aggregate amount of borrowings which the LDA and any subsidiary can have outstanding at any particular time.

Head 28 LDA's Capital Commitments

Provides that:

- (1) The LDA shall not, without the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, enter into a capital commitment the amount of which exceeds an amount specified for the time being for the purpose of this Head and relating to the commitment.
- (2) The Minister may from time to time, with the approval of the Minister for Public Expenditure and Reform, specify amounts for the purposes of this Head and such an amount may be so specified in relation to capital commitments generally or in relation to capital commitments of a particular class or description.

Notes:

This Head is similar to that applying to other Commercial bodies, in providing a framework under which the financial viability of the agency can be reviewed by the relevant Ministers in the light of forward capital commitments.

Head 29 LDA to meet its costs

Provides that:

- (1) The LDA, in performing its functions, shall secure that, taking one year with another, all its costs are met from its operations or funding made available to it pursuant to Head 26.

Notes:

This Head provides that the LDA shall ensure that its cost are met from its operations or capitalisation.

PART 4

Subsidiary Company

Head 30 **Power to establish Subsidiary Companies**

Provides that:

- (1) The LDA may, after consultation with the Minister and the Minister for Public Expenditure and Reform, cause one or more DACs limited by shares (in this Bill referred to as subsidiaries), conforming to the conditions laid down in this Bill, to be formed and registered under Part 16 of the Companies Act.
- (2) The subsidiary constitutional document shall be in such form, consistent with the Bill, as may be determined by the Minister, in consultation with the Minister for Public Expenditure and Reform.
- (3) Notwithstanding anything contained in the Companies Act, no alteration of the constitution of the subsidiaries shall be valid or effectual unless made with the prior approval of the Minister.
- (4) Subsections (1) to (3) of Section 969 of the Companies Act shall not apply to subsidiary companies.
- (5) A subsidiary shall make such reports to the LDA as the LDA may require.
- (6) Neither the LDA nor any subsidiary shall guarantee the borrowings or liabilities of any of their subsidiaries without the prior consent of the Minister or the Minister for Public Expenditure and Reform.
- (7) The LDA may, with the prior consent of the Minister, and subject to any conditions as the Minister may determine, wind up any LDA subsidiary.
- (8) In this section, "Subsidiary constitutional document" means the constitution, memorandum of association, articles of association, trust deed, partnership agreement or other document providing for the establishment and governance of a subsidiary.

Notes:

This Head is to allow the LDA to set up subsidiary companies to undertake certain functions of the LDA.

Head 31 Functions of Subsidiaries

Provides that:

- (1) Subsidiaries shall undertake functions as set out at Head 10, as determined by the Board of the LDA.
- (2) Subsidiaries may undertake functions, in respect of the public functions as set out at Head 9(2), as determined by the Board of the LDA.
- (3) Subsidiaries shall also perform any other duties or discharge any other responsibilities imposed on it by the Companies Act 2014.

Notes:

The LDA will be able to establish subsidiary companies with regard its economic functions under Head 10 to deliver construction projects.

The LDA may also establish subsidiaries with regard to its public functions under Head 9(2).

Head 32 **Subsidiary's relationship with the LDA**

Provides that:

- (1) The LDA shall provide a subsidiary with such business and support services and systems as the Board determines, as may be expedient for the subsidiary to perform its functions under this Bill.
- (2) The LDA shall assign so many of its staff to a subsidiary as the Board determines, to be necessary for the performances by the subsidiary of its functions under this Bill.
- (3) A subsidiary shall reimburse the LDA for the costs incurred by the LDA in consequence of it providing business and support services and systems and assigning staff to the subsidiary under this section.

Notes:

This head provides that the LDA shall provide business and support services and staff to subsidiaries.

The subsidiaries shall reimburse the LDA for the costs, including salaries, incurred.

PART 5

Dissolution of the statutory body established by the 2018 Regulations

Head 33 **Dissolution of the statutory body established by the 2018 Regulations**

Provides that:

- (1) The Minister shall by order appoint a day to be the dissolution day for the purposes of this Part.
- (2) On the dissolution day the statutory body established by the 2018 Regulations (the “dissolved body”) is dissolved.

Head 34 **Transfer of functions to the LDA**

Provides that:

- (1) The administration and business in connection with the performance of any of the functions transferred by subhead (2) are transferred, on the dissolution day, to the LDA.
- (2) The functions vested in the dissolved body under the 2018 Regulations shall, on the dissolution day, stand transferred to the LDA.

Head 35 **Transfer of members of staff of the dissolved body**

Provides that:

- (1) Each person who, immediately before the dissolution day, was a member of staff of the dissolved body is, on that day, transferred to and becomes a member of staff of the LDA.
- (2) A person transferred to the LDA under subhead (1) shall, on the dissolution day, be subject to the terms and conditions of service as set out in their contract of

employment, including those relating to tenure of office, remuneration and superannuation.

- (3) In relation to persons transferred to the LDA under subhead (1), previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2007, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005 and the Unfair Dismissals Acts 1977 to 2007.

Head 36 Property and rights and liabilities of the dissolved body

Provides that:

- (1) On the dissolution day, all property that was immediately before that day, the property of the dissolved body is to be transferred to and vested in the LDA without any conveyance or assignment.
- (2) All rights and liabilities of the dissolved body arising by virtue of any contract, agreement or arrangement—
 - (a) entered into by or on behalf of the dissolved body before the dissolution day, and
 - (b) in effect immediately before the dissolution day,

are on the dissolution day transferred to the LDA.

- (3) Each right and liability transferred under this head, on or after its transfer to the LDA, may be sued on, recovered or enforced by or against the LDA in the LDA's own name.
- (4) The LDA need not give notice of the transfer to the person whose right or liability is transferred to the LDA.

Head 37 Preservation of contracts made by the dissolved body

Provides that:

- (1) Every contract, agreement or arrangement made between the dissolved body or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the dissolution day, shall continue in force and shall be construed

and have effect as if the name of the LDA were substituted therein for that of the dissolved body concerned or, as may be appropriate, its trustee or agent, and shall be enforceable by or against the LDA.

Head 38 Records of the dissolved body

Provides that:

- (1) Each record held by the dissolved body immediately before the dissolution day shall, on that day, stand transferred to the LDA and shall, on and after that day, be the property of the LDA and be regarded as being held by the LDA.

Head 39 Liability for loss occurring before dissolution day

Provides that:

- (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the dissolved body shall, on and after that day, lie against the LDA and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the dissolution day to which the dissolved body is a party shall be continued with the substitution in the proceedings of the LDA, in so far as they so relate, for the dissolved body.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which subhead (1) relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the dissolved body, be enforceable against the LDA and not the dissolved body.
- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall be regarded as having been made by or proper to be made by the LDA and may be pursued and sued for by the LDA as if the loss or injury had been suffered by the LDA.

Head 40 **References to the dissolved body in enactments made before dissolution day**

Provides that:

- (1) References (however expressed) to the dissolved body in any enactment or instrument under an enactment shall after the dissolution day, unless the context otherwise requires, be construed as references to the LDA.

Head 41 **Final accounts of the dissolved body**

Provides that:

- (1) As soon as may be, but not more than 3 months after the dissolution day, the LDA shall cause to be prepared final accounts of the dissolved body in respect of the accounting period or part thereof of the dissolved body ending immediately before the dissolution day.
- (2) Accounts prepared pursuant to this head shall be submitted by the LDA to the auditor appointed under Section 11(3)(b) of the 2018 Regulations as soon as may be for audit and, immediately after the audit, a copy of the accounts as so audited and a copy of the auditor's report thereon shall be presented to the Minister who shall cause copies of those accounts and that report to be laid before each House of the Oireachtas.

Head 42 **Final annual report of the dissolved body**

Provides that:

- (1) The LDA shall prepare a final annual report for the dissolved body and shall submit that report to the Minister not later than 6 months after the dissolution day.
- (2) The Minister shall, within 21 days of receiving the final annual report of the dissolved body, cause copies of it to be laid before each House of the Oireachtas.

- (3) The LDA shall publish the annual report on the internet, or in such other manner as the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas.
- (4) The Minister may omit from a copy of the final annual report of the dissolved body laid before the Houses of the Oireachtas any matter that would disclose confidential information provided that where the Minister omits confidential information from a copy, he or she will insert in its place a statement that the matter has been omitted and a general description of the omitted matter.

Head 43 Transitional provisions consequent upon transfer of functions of the dissolved body

Provides that:

- (1) Anything commenced by or under the authority of the dissolved body and not completed before the dissolution day may be carried on or completed on or after the dissolution day by the LDA.

Notes:

This Part provides that the LDA established by regulation will be dissolved. The business carried out by the LDA to the dissolution day will transition to the new statutory corporation following its incorporation on a dissolution day to be appointed by order.

The provisions are standard in such instances.

PART 6

Financial Statements and Public Accountability

Head 44 **Financial Statements of the LDA**

Provides that:

- (1) The LDA shall keep, in the form as may be approved of by the Minister, proper and usual accounts of money received and expended by it and of all financial transactions undertaken in the performance of its functions.
- (2) Accounts kept in pursuance of this section shall be signed by the Chief Executive (who shall be the officer accountable for such accounts for the purposes of the Comptroller and Auditor General Acts 1866 to 1998) and an appointed member.
- (3) Accounts kept in pursuance of this section shall be submitted by the LDA to the Comptroller and Auditor General for audit as soon as may be, but not later than 4 months, after the end of the financial year of the Agency to which they relate.
- (4) A copy of the accounts as so audited shall, as soon as may be, be given to the Minister who shall cause copies to be laid before each House of the Oireachtas.

Notes:

This Head is a standard provision for bodies funded by the Exchequer and requires the LDA to submit its annual accounts to the Comptroller and Auditor General for audit.

Head 45 Accounts of subsidiaries

Provides that:

- (1) Without prejudice to the requirements of the Companies Acts in relation to balance sheets and accounts, a subsidiary shall keep in such form as may be approved by the Minister, all proper and usual accounts of all money received or expended by it.
- (2) A subsidiary shall, not later than the expiration of 4 months from the end of the financial year to which they related, submit the financial statements, prepared in accordance with Part 6 of the Companies Act, to the Comptroller and Auditor General for audit.
- (3) A copy of the accounts as so audited shall, as soon as may be, be given to the Minister who shall cause copies to be laid before each House of the Oireachtas.

Notes:

This Head provides that separate accounts must be kept in respect of each subsidiary. It also provides that such accounts shall be audited by the Comptroller and Auditor General.

Head 46 Accountability to Committee of Public Accounts

Provides that:

- (1) The Chief Executive shall, whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—
 - (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record or account subject to audit by the Comptroller and Auditor General that the LDA and subsidiary is required by or under an enactment to prepare,
 - (b) the economy and efficiency of the LDA [and subsidiary] in its use of the resources made available to it under this Bill,
 - (c) the systems, procedures and practices employed by the LDA for the purposes of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the LDA [and subsidiary] referred to in—
 - i. any special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or
 - ii. any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in any of paragraphs (a) to (c)) that is laid before Dáil Éireann.
- (2) In appearing before a Committee referred to in subhead (2), the Chief Executive appears as a person accountable to the Committee and not as an accounting officer.
- (3) The Chief Executive, in giving evidence under subhead (2), shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.
- (4) Any evidence given under subhead (2) shall, subject to preserving confidentiality in relation to such commercially sensitive information as determined by the LDA, relate to the policies of the LDA.
- (5) The Chairperson may as he/she deems appropriate in particular circumstances, nominate a senior officer of the LDA to appear in his/her place.

Notes:

This Head is a standard provision to provide that the Chief Executive shall give evidence on a designated range of issues to the Committee of Public Accounts when required.

Head 47

Appointment of statutory auditor or firm

Provides that:

- (1) Where, following prior consultation with the Minister, the board of the LDA considers it appropriate to do so having regard to Head 27, the LDA or a subsidiary may appoint a statutory auditor or statutory audit firm to be a statutory auditor of the LDA or subsidiary, as the case may be, for the purposes of, and in accordance with, the Companies Act.

- (2) The appointment of a statutory auditor or statutory audit firm under subsection (1) shall not affect the operation of Head 44.

- (3) In this section—

“2016 Audit Regulations” means the European Union (Statutory Audits) (Directive 2006/43/EC, as amended by Directive 2014/56/EU, and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016);

“statutory auditor” has the same meaning as it has in the 2016 Audit Regulations;

“statutory audit firm” has the same meaning as it has in the 2016 Audit Regulations.

Notes:

This Head provides for the appointment of a statutory auditor. If the LDA or a subsidiary borrow on a regulated market as provided for by Head 27 then that entity is likely to be a public interest entity and under EU law may need a ‘statutory auditor’ in addition to the Comptroller and Auditor General.

Head 48 Reporting Arrangements

Provides that:

- (1) The LDA shall, not later than 30 June in each year, prepare and submit to the Minister a report on the performance by it of its functions under this Bill in the immediately preceding year, and the Minister shall, as soon as may be after receiving such report, cause copies of the report to be laid before each House of the Oireachtas.
- (2) The LDA shall furnish to the Minister such information regarding the performance or proposals for the performance of its functions as the Minister may from time to time require.
- (3) Such information and reports shall also include information on the LDA's subsidiaries.

Notes:

This Head sets out the reporting arrangements, including the preparation of an annual report, for the LDA and its subsidiaries.

It also provides that the LDA shall report to Government on the current operational use of relevant public lands and the potential for these uses to be accommodated in an alternative manner.

Part 7

The LDA and Land Management

Head 49 National Public Lands Database

Provides that:

- (1) The LDA shall be empowered to compile and update a national database of relevant public lands which shall be publicly available.
- (2) The database shall contain all necessary information to enable the LDA to identify all relevant public lands and advise the Government, and the Minister as appropriate, on the management and use of relevant public lands.
- (3) The Property Registration Authority, Ordnance Survey Ireland and the Valuation Office will provide services to the LDA to assist in the compilation of the database.
- (4) The database shall be compiled within a defined period of the establishment of the LDA.
- (5) Relevant public bodies shall provide all necessary information to the LDA within a defined period of it being requested.

Notes:

This Head provides that the LDA will compile a National Public Lands Database which shall be publicly available on the website of the LDA. Public bodies will be obliged to enable the compilation of the Database by providing information, records and access to relevant public lands to the LDA.

The Head also provides that the Property Registration Authority, Ordnance Survey Ireland and the Valuation Office will provide appropriate services and data to the LDA.

Head 50 Information, records and access to relevant public lands to be made available to the LDA

Provides that:

- (1) The LDA, in performing its functions under Heads 9 and 49, may request from a relevant public body:
 - (a) access to information, records or documents relating to relevant public lands;
 - (b) information relating to the current operational use of relevant public lands and the potential for these uses to be accommodated in an alternative manner; and
 - (c) reasonable access to such relevant public lands.
- (2) A relevant public body shall co-operate and comply with any request of the LDA made under subhead (1).
- (3) It is the duty of each of the members, board, or equivalent governing body of a relevant public body, and each member of its staff, to co-operate with the LDA.

Notes:

This Head provides that relevant public bodies must assist the LDA in relation to the performance of the LDA's public functions.

Head 51 Report on the use of public lands

Provides that:

- 1) The LDA shall, one year after the commencement of this Bill and based on the national public lands data base, provide a report to the Minister on the current operational use of relevant public lands and the potential for these uses to be accommodated in an alternative manner;
- 2) This report will be updated on a biennial basis thereafter, or as required.
- 3) The consideration by the LDA shall take account of the
 - a. objective of the county or city development plans for the area;
 - b. any masterplans developed for sites or the area in which the site is located;
 - c. any synergies for development with contiguous sites owned by local authorities or commercial State companies; and
 - d. the likely infrastructural and development costs associated with the alternative use of the site.

Notes:

This Head provides that the LDA shall be required to report to the Minister on a biennial basis on the optimum use of the public lands on the national public lands database.

Head 52: Disposal of lands by relevant public bodies

Provides that:

- (1) Where a relevant public body intends to dispose of relevant public lands they shall, in the first instance, offer it for sale to the LDA.
- (2) The LDA shall, within [40] working days of being notified by the relevant public body, consider if they require the land to fulfil its objects with regard to strategic land assembly and housing delivery under Head 7.
- (3) If the LDA do not require the lands, they shall, within [10] working days of making a decision as set out in subhead (2) inform the relevant public body in writing of this decision and that they consent to its disposal.
- (4) If the LDA require the lands, they shall, within [10] working days of making a decision as set out in subhead (2) notify the Minister of their requirement for the site.
- (5) The Minister shall, within [20] working days of receiving a notification under subhead (4), make a decision regarding the requirement of the LDA to acquire the lands, having regard to the objects of the LDA under Head 7 and inform the LDA.
- (6) The LDA shall, within [10] working days of receiving a decision under subhead (5), inform the relevant public body in writing of the decision.
- (7) A relevant public body shall not dispose of relevant public lands to a body other than the LDA without having received this written consent from the LDA.

Notes:

This Head provides for the commitment in the Programme for Government that any State lands being offered for sale, whether owned by a local authority, government department, commercial or non-commercial semi-state agency or any other agency, would automatically first be offered to the LDA.

Where such land is offered to the LDA, the LDA shall consider if they require the lands, having regard to its objectives. The Minister shall consider the LDA's requirement for the site having regard to the objectives of the LDA and its financial requirements.

The focus will be on relevant public lands, that is lands in areas with a population of 10,000 or more in the ownership or control of a public body.

Lands are to be transferred in line with the provisions of the State Property Act, Public Spending Code and Code of Governance for State bodies, as appropriate.

If the LDA do not require the land, they will inform the relevant public body, who can then dispose of the site. A public body cannot dispose of land to a body, public or private, other than the LDA without having received a written decision of the LDA.

Head 53 Transfer of land to LDA from public bodies

Provides that:

- (1) Where, under Head 52, the Minister has made a decision regarding the transfer of lands to the LDA that are in the ownership of a relevant public body or where a decision is made to transfer relevant public land to the LDA following a report to Government under Head 51, the LDA shall acquire the site from the relevant public body at an agreed value.
- (2) The agreed value shall be the value of the lands on the date that the LDA informs the relevant public body of its intention to acquire the site under Head 52(6).
- (3) Where lands being transferred to the LDA are in the ownership of a Minister or Commissioner for Public Works, the LDA shall have regard to Head 59 when agreeing a value for the site.
- (4) In the event that the LDA and the relevant public body cannot agree a value within 28 days, an independent market valuation shall be acquired from the Valuation Office.
- (5) The LDA may transfer such land to a subsidiary, at the value determined under this head, solely for the purposes of the delivery of housing or other developments in line with Head 9.

Notes:

This Head provides for the arrangements whereby the LDA shall pay consideration to public bodies for sites transferred to or acquired by the LDA.

The most streamlined and transparent manner for effecting land transfer is for the LDA to pay an appropriate consideration to the relevant public body, whether this body is a Government Department, commercial or non-commercial body or local authority.

The amount of consideration would be agreed between the LDA and the public body. Where the land is owned by a Minister or OPW, then account would be taken of the Public Lands Affordable Housing Delivery Requirement in determining the agreed value for the site. It is not proposed that this affordability requirement apply to lands owned by commercial state bodies and other state bodies outside of General Government.

In the event that the LDA and public body cannot agree a value, there would be an independent valuation process.

Where such land is to be transferred by the LDA to a subsidiary, it can only be for the purposes set out in Head 9. The subsidiary will provide consideration to the LDA. The consideration shall be the value of the land, having regard to the Public Lands Affordable Housing Delivery Requirement and the obligations under Head 9.

Head 54 Acquisition of land compulsorily by LDA.

Provides that:

- (1) The LDA may be authorised to acquire compulsorily land for the purpose of performing any of the functions assigned to it by or under this Bill by means of a compulsory purchase order made by the LDA and submitted to and confirmed by the Minister in accordance with section 76 of the Housing Act, 1966, and the Third Schedule thereto.
- (2) The LDA shall apply a public interest test when seeking to acquire land under subhead (1) where there is an objective housing need in the area, as set out in the housing strategy of the relevant local authority, and
 - a. the site is contiguous to other relevant public lands or lands in the ownership of the LDA, or lands owned a local authority with whom the LDA has entered into an arrangement for the development of such lands under Head 12; or
 - b. the site is necessary to provide access to relevant public lands or facilitate the provision of infrastructure.
- (3) The provisions of the Housing Act, 1966, shall apply in relation to the compulsory acquisition of land under subsection (1) as if it were an acquisition under Part V of that Act and for that purpose a reference to a housing authority shall be construed as a reference to the LDA.
- (4) The Minister may by order make such provision as appears to the Minister to be necessary to enable this head, or an order made under this head, to have full effect.
- (5) Any land acquired by the LDA under this Head shall only be used by the LDA with regard to the provision of social or affordable housing, publicly owned infrastructure or other uses associated with the functions of the LDA in Head 9.
- (6) Any land acquired by the LDA under this Head may be transferred to a subsidiary established by the LDA under Head 31(2).

Notes:

The LDA will have CPO powers similar to those applied to other development agencies such as the former Dublin Docklands Development Authority.

These powers will be available to the LDA but not its subsidiaries.

The availability of CPO powers rather than their use is found to be an important driver of strategic land assembly and activation.

The LDA has a nationwide operation and this head outlines principles to determine the public interest criteria for use of such powers such as

- There is an objective housing need in the area
- Site is contiguous to other State lands
- Site is necessary to provide access to State lands or facilitate the provision of infrastructure

Land acquired by the LDA under this Head shall be used for the provision of social/affordable housing and/or common infrastructure or any other functions under Head 9.

Head 55 Vesting of land from relevant public body to LDA

- (1) Following a decision to transfer land [in the ownership of a Minister or the Commissioner for Public Works] to the LDA under Head 51 or Head 52, and where the LDA and the relevant public body have agreed a value for the land under Head 53, the Minister may [with the consent of the appropriate Minister and the Minister for Public Expenditure and Reform], by order transfer the land from a relevant public body to the LDA together with all rights, powers and privileges relating to or connected with such land.
- (2) The Minister shall not make an order under this Head unless the Minister is satisfied that the use of the land to which the order, if made, will relate is not necessary for the performance of the functions of the relevant public body concerned.
- (3) An order under this Head shall come into operation on such day or days as may be specified in the order and different days may be so specified in relation to different parts of the land to which the order relates.
- (4) An order under this Head may contain such incidental, consequential, transitional or supplementary provisions as may appear to the Minister to be necessary or proper for the purpose of, or in consequence of, or to give full effect to, a transfer of land effected by the order, including provisions for the application, modification, adaptation or other amendment of any enactment.
- (5) Where an order under this Head is made, land to which the order relates shall, on the date specified in the order in relation to that land and without any further conveyance or assignment, become and be vested in the LDA for all the estate and interest of the statutory body.

Notes:

This Head provides that where it has been agreed that land [in the ownership of a Minister or the Commissioner for Public Works] will be transferred to the LDA under Head 51 and 52, the Minister may, where appropriate, make an order to vest such land in the LDA.

PART 8

Miscellaneous

Head 56 **Review of achievement of the LDA's purposes**

Provides that:

- (1) The Minister may at any time require the LDA to report to him or her regarding progress with regard to the achievement of the LDA's purposes.
- (2) The Minister will assess the extent to which the LDA has made progress towards achieving its overall objectives.
- (3) As soon as possible after [date] (3 years after commencement of the Bill), and every seven years after that while the LDA continues in existence, the Minister –
 - (a) Shall assess the extent to which the LDA has made progress towards achieving its overall objectives, and
 - (b) Shall decide whether any directions are required under Head 6, or other actions required to secure greater progress on the achievement of the principal objectives of the LDA under this Bill.

Notes:

This Head provides that the Minister may review the extent to which the LDA has made progress towards achieving its overall objectives.

Head 57 Confidential Information

Provides that:

- (1) A person shall not disclose confidential information obtained by him or her while performing functions as a director or officer, or a member of the staff of, or an adviser or consultant to, the LDA, or a member of the staff of such adviser or consultant unless he or she is duly authorised by the LDA to so do.
- (2) Subhead (1) shall not operate to prohibit the disclosure of confidential information by a person referred to in that subhead to the board of directors of the LDA, where the LDA authorise the disclosure, where the disclosure is made to the Minister by or on behalf of the LDA or in compliance with a requirement of this Bill or where the disclosure is otherwise required by law.
- (3) In this section “confidential information” includes—
 - (a) information that is expressed by the LDA to be confidential either as regards particular information or as regards information of a particular class or description, and
 - (b) proposals of a commercial nature or tenders submitted to the LDA by contractors, consultants or any other person.
- (4) Where a person to whom this head applies fails to comply with a requirement of this head, the LDA shall decide the appropriate action (including removal from office or termination of contract) to be taken.

Notes:

This Head provides that confidential information received by a person while performing his/her functions cannot be disclosed unless the person is authorised by the LDA to do so.

Head 58 Offence of Unlawful Interference

Provides that:

- (1) A person shall not attempt, and shall not procure or counsel another to attempt, in either case whether directly or indirectly, to:
 - (a) influence improperly a decision of the LDA concerning the discharge of its objects or functions under this Bill; or
 - (b) otherwise improperly interfere with or compromise a decision of the LDA concerning the discharge of its objects or functions under this Bill.
- (2) A person who contravenes subhead (1) shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months, or both.

Notes:

This Head provides that it will be an offence to unlawfully interfere with the decision making process of the LDA.

Head 59

Public Lands Affordable Housing Delivery Requirement

Provides that:

- (1) A provision shall apply to all relevant public lands owned by a Minister or the Commissioner for Public Works on or after the date of commencement of this Head which are published on the database referred to in Head 49. This provision will require that if this land is being developed or being redeveloped for residential housing purposes, on lands zoned for such purposes, a minimum percentage of the area of such lands will be developed for the purposes of affordable housing.
- (2) The definition of affordable housing for this purpose shall be as set out in Head 8.
- (3) The percentage set shall be [xx%] and the Minister may make regulations to provide for
 - (a) An increase or decrease in the percentage based on an assessment of the overall need for affordable housing having regard to housing strategies developed by local authorities.
 - (b) circumstances where the requirement would not apply, which shall include exclusions of the lands in whole or part, where
 - (i) the lands in whole or part are required for the provision of common infrastructure or services for wider urban development;
 - (ii) part of the lands is suitable for mixed use development including commercial development in line the zoning objectives set out in the relevant county or city development plan in respect of such lands.
 - (iii) The lands can be traded or otherwise used to unlock greater delivery of affordable housing in other locations than would have been possible on the subject lands;
 - (iv) The requirement of a different mix of tenures on lands to promote greater social integration and diversity in local communities, as may be agreed by the relevant local authority, having regard to its housing strategy.
- (4) This Public Lands Affordable Housing Delivery Requirement will apply to any relevant public body or private body, who take ownership of this land on or after the date of enactment of this Bill, and where that land is zoned in full or part for residential housing development.

Notes:

This Head provides for a public lands affordable housing delivery requirement, whereby a minimum percentage of all publicly owned lands will be reserved for affordable housing purposes, as appropriate for such development.

This provision would apply to public lands owned by a Minister or Commissioner for Public Works on or after commencement of the Head, if the land is developed for residential purposes.

The definition of affordable housing in this context, would encompass not only any relevant schemes which may be outlined in Housing Acts from time to time (including cost rental) but also the broad concept of affordable housing set out in Head 8 which is an underlying object of the LDA's role in the delivery of housing on State lands (Head 7), and should apply equally to other entities developing such land.

It is important that there is clarity and transparency around lands included, and a link could be made to the state lands database as the appropriate criterion for determining that the provisions apply – i.e. if the lands are listed as owned by Ministers or OPW on that database (which would be publically available) after a set date.

Head 60 Application of Freedom of Information Act

Provides that:

- (1) The provisions of the Freedom of Information Act, 2014 shall apply to the LDA from the date of establishment.

Notes:

Section 6(12) of the FOI Act 2014 provides that public bodies are not subject to FOI until a maximum of 6 months have passed since the date of establishment.

The Department of Public Expenditure and Reform have advised that if the existing LDA is to be dissolved and a new entity is created under this Bill, then the six-month period from establishment will apply. As the existing LDA is currently subject to FOI, provision needs to be made to ensure that the new entity is subject to FOI from the date of establishment.

In the context of the transfer of records alongside functions from the statutory body established by the 2018 Regulations it may also be necessary to additionally fixing an appropriate “effective date”. Records created on or after the “effective date” will be subject to FOI, while records pre-dating this point can only be released in particular circumstances.

Head 61 Amendment of Housing Finance Agency Act, 1981

Provide that:

- (1) Section 5 of the Housing Finance Agency Act, 1981 is amended to provide that the Housing Finance Agency may make a loan to the LDA.

Notes:

This Head provides that the Housing Finance Agency Act is amended to provide that the HFA can provide loans to the LDA.