



Number 4 of 2014

County Enterprise Boards (Dissolution) Act 2014



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COUNTY ENTERPRISE BOARDS (DISSOLUTION) ACT 2014

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ACTS REFERRED TO

Companies Acts

Industrial Development (Enterprise Ireland) Act 1998 (No. 34)

Industrial Development Act 1993 (No. 19)

Industrial Development Act 1995 (No. 28)

Industrial Development Act 2006 (No. 34)

Industrial Development Acts 1986 to 2009

Local Government Act 2001 (No. 37)

Minimum Notice and Terms of Employment Acts 1973 to 2005

Organisation of Working Time Act 1997 (No. 20)

Parental Leave Acts 1998 and 2006

Protection of Employees (Part-Time Work) Act 2001 (No. 45)

Redundancy Payments Acts 1967 to 2012

Unfair Dismissals Acts 1977 to 2007



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COUNTY ENTERPRISE BOARDS (DISSOLUTION) ACT 2014

An Act to provide for the dissolution of County Enterprise Boards and the transfer of their functions to Enterprise Ireland; and to provide for matters connected therewith.

[12th March, 2014]

Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act—

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

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

“Act of 2001” means the Local Government Act 2001;

“city council” has the same meaning as it has in the Act of 2001;

“county council” has the same meaning as it has in the Act of 2001;

“county enterprise board” means a body referred to in the Schedule to the Act of 1995 and established for the purposes specified in subsection (1) of section 10 of that Act;

“dissolution day” shall be construed in accordance with *section 4*;

“local authority” means a city council or a county council;

“member of staff” means, in relation to a county enterprise board, a person employed by the county enterprise board under a contract of service;

“Minister” means the Minister for Jobs, Enterprise and Innovation;

“remuneration” does not include allowances or expenses.

Functional area of local authority

2. (1) For the purposes of this Act, the functional area of a city council consists of—

(a) that city council’s administrative area, and

(b) the administrative area of any other local authority declared by order under *subsection (3)* to form part of that functional area.

(2) For the purposes of this Act, the functional area of a county council consists of—

(a) that county council’s administrative area and the administrative area of any town

council situated within that county council's administrative area, and

- (b) the administrative area of any other local authority declared by order under *subsection (3)* to form part of that functional area.
- (3) The Minister may, after consultation with the Minister for the Environment, Community and Local Government, by order declare that, for the purposes of this Act, the administrative area (including, in the case of a county, the administrative area of any town council situated within that county) of a local authority specified in the order forms part of the functional area of another local authority specified in the order.
- (4) In this section—
 - “administrative area” has the same meaning as it has in the Act of 2001;
 - “town council” has the same meaning as it has in the Act of 2001.

Expenses

- 3. The expenses incurred by the Minister in the administration of this Act 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.

Dissolution day

- 4. The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Act.

Dissolution of county enterprise boards

- 5. (1) Each county enterprise board shall stand dissolved on and from the dissolution day.
 - (2) The Minister shall, as soon as practicable after the dissolution day, notify in writing the Registrar of Companies that, by virtue of this section, each county enterprise board stands dissolved.
 - (3) The Registrar of Companies shall, on receipt of the notification under *subsection (2)*, register the notification under the Companies Acts in respect of each county enterprise board.

Transfer of functions of county enterprise boards to Enterprise Ireland

- 6. (1) All functions that, immediately before the dissolution day, were vested in a county enterprise board by or under any enactment are transferred to Enterprise Ireland.
 - (2) References in any enactment (other than this Act) or instrument under an enactment to a county enterprise board shall be construed as references to Enterprise Ireland.
 - (3) (a) The functions transferred to Enterprise Ireland by this section shall, in the functional area of a local authority, be performed on its behalf by that local authority.

- (b) Enterprise Ireland may make an arrangement with a local authority in relation to the performance by that local authority of functions transferred to Enterprise Ireland by this section and, where such an arrangement is made, the local authority shall perform those functions in accordance with the arrangement.
 - (c) An arrangement under this section may specify conditions in relation to the performance of the functions concerned by the local authority.
- (4) Section 10 of the Act of 1995 is amended by—
- (a) the deletion, in paragraph (e) of subsection (4), of “subject to the prior consent in writing of the Minister”, and
 - (b) the deletion, in that subsection, of paragraph (g).

Transfer of land and other property

7. (1) On the dissolution day, all lands that, immediately before that day, were vested in a county enterprise board and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in Enterprise Ireland for all the estate or interest therein that, immediately before the dissolution day, was vested in that county enterprise board, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.
- (2) On the dissolution day, all property (other than land), including choses-in-action, that, immediately before that day, was vested in a county enterprise board shall stand vested in Enterprise Ireland without any assignment.
- (3) Every chose-in-action vested in Enterprise Ireland by virtue of *subsection (2)* may, on and from the dissolution day, be sued on, recovered or enforced by Enterprise Ireland in its own name, and it shall not be necessary for Enterprise Ireland, or a county enterprise board, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by county enterprise boards

8. (1) All rights and liabilities of a county enterprise board arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to Enterprise Ireland.
- (2) Subject to *subsection (5) of section 12*, every right and liability transferred by *subsection (1)* to Enterprise Ireland may, on and after the dissolution day, be sued on, recovered or enforced by or against Enterprise Ireland in its own name, and it shall not be necessary for Enterprise Ireland, or a county enterprise board, to give notice to the person whose right or liability is transferred by that subsection of such transfer.
- (3) Every lease, licence, wayleave or permission granted by a county enterprise board in relation to land or other property vested in Enterprise Ireland by or under this Act, and in force immediately before the dissolution day, shall continue in force as if granted

by Enterprise Ireland.

Liability for loss occurring before dissolution day

9. (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 the functions transferred to Enterprise Ireland by this Act shall on and after that day, lie against Enterprise Ireland and not against a county enterprise board.
- (2) Any legal proceedings pending immediately before the dissolution day to which a county enterprise board is a party, that relate to a function of that county enterprise board transferred by this Act, shall be continued, with the substitution in the proceedings of Enterprise Ireland, in so far as they so relate, for that county enterprise board and the proceedings shall not abate by reason of such substitution.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of the agreement 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 a county enterprise board be enforceable against Enterprise Ireland and not that county enterprise board.
- (4) Any claim made or proper to be made by a county enterprise board in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, where the claim relates to functions transferred to Enterprise Ireland by *section 6*, on and after that day be regarded as having been made by or proper to be made by Enterprise Ireland and may be pursued and sued for by Enterprise Ireland as if the loss or injury had been suffered by Enterprise Ireland.

Provisions consequent upon transfer of functions, assets and liabilities to Enterprise Ireland

10. (1) Anything commenced and not completed before the dissolution day by or under the authority of a county enterprise board may, in so far as it relates to a function transferred to Enterprise Ireland under *section 6*, be carried on or completed on or after the dissolution day by Enterprise Ireland.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 6*, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by Enterprise Ireland.
- (3) References to a county enterprise board in the memorandum of association or articles of association of any company (other than a county enterprise board) and relating to a function transferred by *section 6* shall, on and after the dissolution day, be construed as references to Enterprise Ireland.
- (4) Any money, stocks, shares or securities transferred by *section 7* that, immediately before the dissolution day, were standing in the name of a county enterprise board shall, on the request of Enterprise Ireland, be transferred into its own name.

- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in Enterprise Ireland under *section 7* or *8* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Designation of staff of county enterprise boards for purposes of *section 12*

- 11.** (1) The Minister may designate for employment by Forfás any person who, immediately before the designation, is a member of the staff of a county enterprise board.
- (2) The Minister may designate for employment by Enterprise Ireland any person who, immediately before the designation, is a member of the staff of a county enterprise board.
- (3) The Minister may designate for employment by a local authority specified by him or her any person who, immediately before the designation, is a member of the staff of a county enterprise board.
- (4) A designation under this section shall be in writing.

Transfer of staff of county enterprise boards

- 12.** (1) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, Forfás shall accept into its employment on the dissolution day each person who, immediately before that day—
- (a) stood designated by the Minister in accordance with *subsection (1) of section 11*, and
- (b) was a member of staff of a county enterprise board,
- on such terms and conditions of service relating to remuneration as are not less favourable to him or her than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.
- (2) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, Enterprise Ireland shall accept into its employment on the dissolution day each person who, immediately before that day—
- (a) stood designated by the Minister in accordance with *subsection (2) of section 11*, and
- (b) was a member of staff of a county enterprise board,
- on such terms and conditions of service relating to remuneration as are not less favourable to him or her than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.
- (3) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform and the Minister for the Environment,

Community and Local Government, a local authority shall accept into its employment on the dissolution day each person who, immediately before that day—

- (a) stood designated by the Minister in accordance with *subsection (3) of section 11* for employment by that local authority, and
- (b) was a member of staff of a county enterprise board,

on such terms and conditions of service relating to remuneration as are not less favourable to him or her than the terms and conditions of service relating to remuneration to which the person was subject immediately before that day.

- (4) In relation to persons accepted into the employment of Forfás, Enterprise Ireland or a local authority in accordance with this section, previous service with a county enterprise board shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following enactments:
 - (a) the Redundancy Payments Acts 1967 to 2012;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
 - (d) the Unfair Dismissals Acts 1977 to 2007;
 - (e) the Organisation of Working Time Act 1997;
 - (f) the Parental Leave Acts 1998 and 2006.
- (5)
 - (a) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, the entitlement to any superannuation benefit of, or in respect of, a person who was accepted into the employment of Forfás, Enterprise Ireland or a local authority in accordance with this section shall be determined, and the benefit shall be calculated and paid, by Forfás, Enterprise Ireland or that local authority, as may be appropriate, in accordance with such scheme, arrangements or enactments in relation to superannuation as applied to the person immediately before the dissolution day and, for that purpose, his or her pensionable service with Forfás, Enterprise Ireland or a local authority, as the case may be, shall be aggregated with his or her previous pensionable service.
 - (b) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, the entitlement to any superannuation benefit of, or in respect of, a person who is a former member of the staff of a county enterprise board (including those former members of staff of a county enterprise board who are deceased) shall be determined, and the benefit shall be calculated and paid, by the Minister in accordance with such scheme, arrangements or enactments in relation to superannuation as applied in respect of the person immediately before the dissolution day.
 - (c) All functions in relation to superannuation under any scheme, arrangement or

enactment that, immediately before the dissolution day, vested in a county enterprise board shall on and from that day vest in the Minister.

- (6) The Second Schedule to the Industrial Development Act 1993 is amended by the substitution of the following subparagraph for subparagraph (2) of paragraph 2:

“(2) Any person—

- (a) accepted into the employment of Forfás under section 21,
 - (b) transferred to the staff of Forfás in accordance with—
 - (i) section 21A (inserted by the Industrial Development Act 2006), or
 - (ii) section 39 or 40 of the Industrial Development (Enterprise Ireland) Act 1998,
- or
- (c) accepted into the employment of Forfás in accordance with *section 12 of the County Enterprise Boards (Dissolution) Act 2014,*

may be seconded from time to time by Forfás to serve with the IDA, Enterprise Ireland or the National Standards Authority of Ireland.”.

- (7) In this section—

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death.

Final accounts and final annual reports of county enterprise boards

- 13.** (1) Enterprise Ireland shall, in respect of the period specified under *subsection (3)*, prepare final accounts in respect of each county enterprise board.
- (2) Enterprise Ireland shall submit the final accounts of each county enterprise board to the Comptroller and Auditor General for audit not later than 3 months after the dissolution day.
- (3) For the purposes of *subsection (1)*, the Minister may specify—
- (a) a period that is longer or shorter than a financial year of a county enterprise board, and
 - (b) different periods in respect of different county enterprise boards.
- (4) Enterprise Ireland shall prepare the final annual report in respect of each county enterprise board and submit the report to the Minister not later than 5 months after the dissolution day.
- (5) Section 22 of the Act of 1998 shall apply with the necessary modifications in relation to an annual report prepared under this section.

Short title, collective citation and commencement

- 14.** (1) This Act may be cited as the County Enterprise Boards (Dissolution) Act 2014.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) The Industrial Development Acts 1986 to 2009 and this Act may be cited together as the Industrial Development Acts 1986 to 2014.