

SCOTTISH NATIONAL INVESTMENT BANK BILL SUMMARY

The Bill recognises that the Bank is both a financial services institution and a public body. It gives Ministers the power to set the Bank's strategic direction and to hold it to account for its performance in delivering against this direction, but safeguards the Bank's autonomy to decide how it invests to meet these objectives.

Further requirements placed on the Bank through the Bill ensure that it acts in a way that is commensurate with its role as a public body but without unduly encroaching on the Bank's operational independence and flexibility.

The Bill was introduced to the Scottish Parliament in February 2019 and was unanimously passed at Stage 3 on 21 January 2020.

This briefing acts as short guide to the key features of the Bill as passed. It should be read alongside the Bill itself.

The Bank's Articles of Association (Bill Pages 1 – 5)

The Bill requires that Scottish Ministers establish the Bank as a public limited company and provide it with its Articles of Association.

It also mandates specific Articles that must be included in the Bank's Articles of Association - these Articles will be 'entrenched'. Where an Article is entrenched, Ministers will need the approval of Parliament (via a resolution) before giving their permission, as sole shareholders, for those Articles to be amended. The Bill entrenches the following key Articles:

- **The Bank's Objects** – sets out the key aims of the Bank and the parameters within which it can invest. These are widely drawn to provide maximum flexibility within devolved powers. The Objects give the Bank an express role in delivering environmental, social and wider economic as well as financial returns through its investments.
- **The Bank's Ownership and Borrowing Powers** – Specifies that shares in the Bank may only be held by Ministers and that the Bank can only borrow from Ministers.
- **Ethical Investment Standards** – provides that the Bank's Board is responsible for instituting ethical standards aligned to the Bank's objects and missions, and establishing processes that ensure investment decisions are made in line with those standards.
- **Balanced Scorecard** - requires the Bank to prepare a document measuring its performance on economic, social, environmental, or any other (financial or non-financial) impacts and states that this scorecard would be used in the preparation of performance reporting.
- **The Appointment of Directors** – states that between 9 and 13 are to be appointed, at least two thirds of which must be non-executive directors. The Board must include between 2 and 4 executive directors.
- **The Tenure of Directors** – sets a maximum tenure of 8 years for non-executive directors.
- **Remuneration** – provides that remuneration policy is to be set by the Board subject to any direction from Ministers.
- **Committees of the Bank** – requires the Board to establish Audit and Risk committees.
- **Gender Equality Strategy** – the Bank must prepare and publish a Gender Equality Strategy

Strategic Missions (Bill Pages 6 – 7)

The Bill gives Ministers the power to set strategic missions for the Bank; these will be socio-economic and environmental challenges that the Bank's activity can help to address. The process outlined in the Bill for setting missions is detailed below:

- Scottish Ministers must consult, and seek to reach agreement with, the Bank's Board when they intend to bring forward proposals to set, modify or end a mission.
- Scottish Ministers must then consult publicly (for a period of 40 days excluding parliament recess) before setting, modifying or ending a mission for the Bank.
- The Bill sets out a mechanism through which the Bank can bring forward proposals to set, modify or end an existing mission. Scottish Ministers are not required to consult the Bank's Board where mission proposals originate from the Bank
- The Bank must inform Scottish Ministers how it intends to respond to the mission via a mission report. Exceptions to this requirement are set out in the Bill.

Performance Reporting (Bill Pages 8 – 9)

The Bill sets out how the Bank must report to Ministers on key aspects of its performance:

- The Bank must report to Scottish Ministers on the performance of its investments at the end of each financial year or at any other time required by Scottish Ministers.
- The Bill gives Scottish Ministers the power to specify particular information that they require the Bank to report on as well as the format of these reports.
- Scottish Ministers are also required to appoint an external person to review key aspects of the Bank's performance every five years. This review must consider how the Bank has performed against its objects, missions and relevant national performance indicators. This report must be laid before Parliament and published.
- In addition, the Bank must also report to Parliament every two years on its performance in delivering against its Gender Equality Strategy.

Other Notable Provisions

Fair Work Direction – Requires Ministers to issue a Fair Work¹ Direction to the Bank within a year of the provision coming into force. The Direction will make clear that the Bank must seek to promote Fair Work in exercising its functions and will define Fair Work for the purposes of the Direction. Ministers must consult the Bank as well as persons who represent the interests of workers and of businesses in Scotland before issuing the Direction.

Equal Pay Review – Mandates that the Bank must periodically conduct an equal pay review to ensure that it is providing equal pay for equal work. The Bank must then report to Scottish Ministers on the findings of the review.

Advisory Group – Places a duty on Scottish Ministers to establish an Advisory Group to provide them with advice regarding key aspects of the Bank's objectives and performance. The membership of the Advisory Group must include at least one Trade Union representative.

Exercise of Power to Appoint Non-Executive Directors – requires Scottish Ministers to give consideration to the desirability of the Board as a whole having experience or knowledge of the issues facing both those who work in Scotland and businesses in Scotland when appointing non-executive directors to the Board.

¹ The Scottish Government defines Fair Work employers as those that pay the Living Wage, do not use exploitative zero hours contracts, invest in skills and training, act to reduce the gender pay gap and promote workforce engagement.