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Department of Finance

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Minute of the Minister for Finance in response to the First Interim Report of the Committee of Public Accounts on the Report of the Comptroller & Auditor General and Appropriation Accounts, 2002: Chapter 9.1 – The Exhibition and Show Centre at Punchestown.

A Chara

I am directed by the Minister for Finance to enclose for your information and guidance a copy of the Minute of the Minister for Finance in response to the First Interim Report of the Committee of Public Accounts on the Report of the Comptroller & Auditor General and Appropriation Accounts, 2002. The Minute was submitted to the PAC on 30 June 2004.

Your attention is drawn in particular to paragraphs 5-7 of the Minister's Minute which, inter alia, stress that the onus for implementation of the 1994 Department of Finance Guidelines on Capital Appraisal rests with individual Departments and implementing agencies and that, in general, the selection of projects is delegated to Departments but that the Capital Appraisal Guidelines should be applied in the process of selection.

Departments have been circulated for consultation purposes with a revised draft of the Department of Finance's 1994 Guidelines for the Appraisal and Management of Capital Expenditure. Revised guidelines will be published later this year in the light of the outcome to these consultations.

Mise le Meas

Tom Considine
Secretary General

To: All Accounting Officers

Minute of the Minister for Finance
in response to the Committee of Public Accounts'
First Interim Report on the Annual Report of the C&AG and Appropriation Accounts, 2002
on Chapter 9.1 – The Exhibition and Show Centre at Punchestown

1. Department of Agriculture and Food's Evaluation Process

The Minister for Finance notes the findings of the PAC in relation to the evaluation process carried out on this project.

The Minister for Finance is advised by the Department of Agriculture and Food that it believed, at the time, that it applied evaluation procedures considered to be appropriate for a project of this type. It has further advised that this was a one-off project and did not easily fit the category of scheme usually administered by that Department. In addition, the Department of Agriculture and Food considered that the project was not a normal type of grant proposal, was difficult to evaluate in terms of outputs and outturns and as such did not readily lend itself to being evaluated under the Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector. The Minister is further advised by the Department of Agriculture and Food that the project was carefully examined against a number of criteria including the need for the facility, the suitability of Punchestown as a venue, whether other locations could be used and the likely events that would take place there. The Minister is assured that in making a policy decision to fund the project, the Minister for Agriculture and Food was advised by his Department that the proposed investment was considered to represent an appropriate and justified use of the funds being provided.

2. Implementation of the corporate restructuring arrangement between Horse Racing Ireland (HRI) and the Kildare Hunt Club

The Minister has been advised by the Department of Arts, Sport and Tourism that on 1 December 2003, Punchestown Holdings Limited (previously referred to as NewCo) was established as a joint venture company with the share capital held 50:50 by HRI and Kildare Hunt Club. He has been further advised by that Department that it is the intention of HRI and the Kildare Hunt Club that the ownership of the trading companies at Punchestown (Blackhall Racing Company which runs the racecourse, Punchestown Development Co. Ltd which developed the racecourse and Punchestown Enterprises Co. Ltd. which developed and runs the Enterprise Centre) will transfer to Punchestown Holdings as soon as the question of the existence of any taxation liabilities of the Kildare Hunt Club to the Revenue Commissioners has been finalised.

The Minister has also been told by the Department of Arts, Sport and Tourism that, pending the resolution of these taxation issues, a Management Services Agreement was entered into between HRI and Kildare Hunt Club whereby Punchestown Holdings Limited provides management services in relation to the management and operation of Punchestown Racecourse and Event Centre.

3. Completion of the revised legal arrangement
The Minister for Finance is assured by the Department of Agriculture and Food that the revised legal agreement between that Department and the Punchestown Companies was completed on 8 April 2004.

4. Post project review

The Minister for Finance has been assured by the Department of Agriculture and Food that a post project review will be undertaken by that Department, as stated in the 1994 Guidelines, and will be presented to the PAC by 30 March, 2005.

5. Application of the Department of Finance's 1994 Guidelines

And

6. Clarification of the Department of Finance's role

And

7. Appropriate legal agreements

The Minister for Finance accepts the Committee's general recommendations 5-7.

The Minister would point out that the onus for the implementation of the 1994 capital appraisal guidelines rests with individual Departments and implementing agencies. The Minister would also point out that, in general, the selection of projects is delegated to Departments but that the capital appraisal guidelines should be applied in the process of selection. The Minister would also invite the Committee to note that Ministers, in arriving at policy decisions, take all relevant factors into account and that the costs etc associated with projects are not the only relevant factors.

The Minister would ask the Committee to note that, to facilitate a better appraisal regime and better overall compliance with the guidelines, his Department is currently putting in place arrangements for all Departments which will address these concerns through a combination of the implementation of the multi-annual investment frameworks under the capital envelopes announced in the 2004 Budget and a revision of his Department's Guidelines for Appraisal and Management of Capital Expenditure in the Public Sector. The standard conditions of sanction applying to capital expenditures currently being issued to each Department for their programme of capital expenditure for 2004 and their indicative allocations for 2005-2008 under their multi-annual investment frameworks require:

- Full compliance by Departments and their agencies with the Department of Finance's Guidelines for Appraisal and Management of Capital Expenditure in the Public Sector – this will be subject to checking through Departments putting in place a system to carry out annual spot-checks of projects to ensure compliance with the Guidelines, to report on the outcome of these to their Management Teams and their Ministers and the Department of Finance.
- An appropriate contractual arrangement being put in place by each Department and its agencies for all significant grants of public funding to private

companies and individuals or community groups relating to the State's interest in the asset. This will include putting in place a written contract to safeguard the Exchequer interest in the event of a change in ownership and for the repayment of grants where the terms of the grant are not adhered to and in the event of the sale of the asset.

- Departments reporting regularly (at least every six months) to their MAC on the evaluation of capital projects prior to approval, the management of capital projects and on progress on their capital programmes.

A copy of these standard conditions is attached.

As regards his Department's role, the Department will be arranging for the NDP/CSF Evaluation Unit to carry out on its behalf periodic reviews of Departments' spot-check reports and the Department will be engaging with Departments in relation to the outcome of such reviews. The Department of Finance will be submitting revised Capital Appraisal Guidelines to the Minister for Finance for approval which will update the 1994 Guidelines.

Furthermore the Minister is assured that the Department of Agriculture and Food agrees that application of the 1994 Guidelines, and of the revised guidelines when published, will be complied with and that the appropriate legal agreements will be put in place for such projects in their Department.

8. Review of inter-company internal charging system

The Minister for Finance is assured by the Department of Agriculture and Food that the inter-company charging system at Punchestown will be kept under review by that Department to ensure there are no hidden subsidies to non-grant-aided activities.

Multi Annual Investment Framework

General Conditions of Sanction

Sanction to the multi-annual investment framework is subject to the following conditions:

(a) Contractual commitments

The level of contractual commitments (meaning formal legal contract or grant approval) made in 2004 in respect of 2005 will not exceed 85% of the 2004 allocation for the Department. The corresponding limits in subsequent years are 75% of the 2004 allocation for 2006, 60% for 2007 and 45% for 2008. These limits will be rolled forward each year.

(b) Virement

The Multi-Annual Investment Framework will not affect the normal rules for operation of virement between Vote subheads. A separate subhead will be established in your Vote to meet unitary payments arising under PPP contracts. Unitary payments from this subhead under contracts in respect of projects delivered by Public Private Partnership/National Development Finance Agency (PPP/NDFA) will be "ring fenced" and regarded as non-discretionary current expenditure. Virement will not apply to the carryover sums at (g) below.

(c) Programme contingency provision

The Department will make a contingency provision within its overall envelope to meet any unforeseen demands or additional costs which might emerge for the programme as a whole.

(d) Project contingency

In making provision for each project, account should be taken not just of the contract price but appropriate and reasonable provision should also be made for likely price increases, variations in specifications and other factors which might arise during project construction. (The extent to which this is necessary will be significantly reduced where design and build fixed price contracts are in operation.)

(e) *Project costings*

Departments must in their evaluation of a project satisfy themselves that any staffing and other current costs arising are consistent with Government policy on staffing and can be met within existing approved resources.

(f) *Grants to private companies, individuals and community groups*

An appropriate contractual arrangement to be put in place by the Department or its agencies, as appropriate, for all significant grants of public funding to private companies and individuals or community groups relating to the State's interest in the asset. In such cases they should, in particular, have in place a written contract to safeguard the Exchequer interest in the event of change of ownership. The contractual provisions should also provide for the repayment of such grants where the terms are not adhered to and in the event of sale of the asset.

(g) Carryover of unspent annual allocations

The Department may carryover into the following year unspent capital up to a limit of 10 per cent of the current year's Voted capital allocation. These sums will be lodged to the credit of the Department's PMG Account and may, in accordance with the provisions of Section 91 of the Finance Act, 2004, be spent in the following year upon approval by the Dáil of the Ministerial Order specifying the amounts by subhead. Any sum which is carried over and not spent in the following year will be surrendered to the Central Fund.

The Department will supply to the Department of Finance a statement of the total Voted amount it proposes to carry forward into the following year for inclusion in the Abridged Estimates Volume by 31 October each year. It will provide a definitive statement of proposed carryover amounts by the last Friday before the Budget each year.

(h) Reporting requirements

The Department should make arrangements:

(i) to report regularly (at least every six months) to its MAC on the evaluation of capital projects prior to approval, the management of capital projects and on progress on its capital programmes and,

(ii) to put a system in place to carry out annual spot checks of projects to ensure compliance with the requirements at (*i*) below (including the highlighting of variances against the agreed budget) and to report the findings of such spot checks annually to the Department of Finance.

The NDP/CSF Evaluation Unit will carry out periodic reviews of these spot check reports. The Department of Finance will furnish a copy of the NDP/CSF Evaluation Units review on such checks to the Secretary General of the Department for comment before considering what action, if any, the Sponsoring Department needs to take on foot of any report.

(i) Adherence to National and EU requirements in relation to capital appraisal, public procurement etc.

The Department will comply fully with:

- The Department of Finance's Guidelines for Appraisal and Management of Capital Expenditure Proposals in the Public Sector (The 1994 guidelines are currently being revised);
- Where appropriate, requirements for undertaking Public Private Partnerships as set down by the Department of Finance, including the requirement to consult with the National Development Finance Agency on financing options for all projects in excess of [€20 million].
- Public Procurement procedures - both National and EU; and
- Tax clearance requirements as laid down by the Revenue Commissioners.

(j) Annual Report

Beginning in 2005, the Department will submit to the Department of Finance before the end of January of each year an annual report on the capital investment programmes covered by this Agreement. It will include:

- An outline of overall priorities for each of the capital programmes under its aegis over the next 5-year period consistent with the envelope set out in the Budget;
- A statement showing how the priorities are consistent with the National Development Plan, the National Spatial Strategy and other relevant Government programmes or strategies;
- For PPP projects costing [€X million, or more], an estimate by project of unitary payments arising on foot of PPP/NDFA funding and a breakdown of such costs between capital, interest and maintenance payments; and
- Total level of contractual commitments entered into by future year.
- A report on progress on projects and programmes under the multi-annual investment framework.