



## **PREFACE**

Compiled in accordance with the Freedom of Information (FOI) Act 2014.

The FOI Act 2014 establishes three statutory rights:

- a right for each person to access information held by public bodies;
- a right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
- a right to obtain reasons for decisions affecting him/herself.

The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

### **Purpose of reference book**

This reference book has been prepared and published in accordance with the requirements of section 8 of the FOI Act. In accordance with section 8 of the Act, the purpose of this reference book is to facilitate access to official information held by the Companies Registration Office (CRO), by outlining the structure and functions of the office; details of the services we provide and how they may be availed of; information on the classes of records we hold; and information on how to make a request to the office under the FOI Act.

### **Section 8 of the FOI Act**

Information about the Companies Registration Office (CRO) and the FOI Act are stated below under six different headings:

- Information about the FOI Body
- Services Provided or to be provided to the Public
- Decision Making process for major policy proposals
- Financial information
- Procurement
- FOI Disclosure log and other information to be published routinely.

Please note that where requests for information are received under the Act, there is a presumption of release unless specific exemptions apply. Even where specific exemptions may be deemed to apply, consideration must be given to whether it is in the public interest to release the records. Therefore, when submitting non-statutory submissions to the CRO it should be borne in mind that any records could potentially be released by the CRO.

Under the FOI Act anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right to:

- access to records held by the CRO;
- correction of personal information relating to oneself held by the CRO where it is inaccurate or misleading;
- access to reasons for decisions made by the CRO directly affecting oneself.

The following records come within the scope of the FOI Act:

- all records relating to personal information held by the CRO irrespective of when created;
- all other records created from commencement date i.e. 21 April 1998;
- any other records necessary to the understanding of a current record.

Further information regarding the procedure to make an application is provided in Part 1 of this Handbook.

### **FOI Fees**

A detailed list of our fees chargeable on documents, or for services rendered, which are outside the scope of the FOI Act, are set out in Appendix 1 of this FOI Handbook. Fees for information falling under the FOI Act may be charged in accordance with S.I. No. 531 of 2014 - Freedom of Information Act 2014 (Fees)(No. 2) Regulations 2014.

### **Information about the FOI Body**

- CRO operates under the aegis of the Department of Business, Enterprise and Innovation.
- Copies of the CRO Annual Report can be accessed from the Corporate Publications webpage on [www.cro.ie](http://www.cro.ie) under Publications/Publications/Corporate.
- The CRO comprises the following breakdown in staff numbers:  
1 Principal Officer, 4 Assistant Principal Officers, 2 Legal Advisors, 1 Accountant, 11.6 Higher Executive Officers, 29.7 Executive Officers, 3 Service Officers and 59.6 Clerical Officers.
- Telephone/email address information: Please see section 1 of this document
- CRO Customer Charter is available on the CRO website, [www.cro.ie](http://www.cro.ie), under About Us/Customer Charter.

### **Services Provided or to be provided to the Public**

- The CRO maintains registers under the operation of the Companies Act 2014, the Registration of Business Names Act 1963, the Limited Partnerships Act 1907 and other sundry legislation. See Appendix 3.
- Information relating to the services provided by the CRO is published in Section 2 of this Freedom of Information Handbook as well as on [www.cro.ie](http://www.cro.ie).
- Fees information is stated in Appendix 1.

### **Decision Making process for major policy proposals**

- The CRO maintains registers under the Acts described above and is not involved in policy decisions. It also has no investigative powers.

### **Financial Information**

- Details, on a quarterly basis, of payments or purchase orders for goods and services of more than €20,000 are published on a webpage: accessible on CRO website, [www.cro.ie](http://www.cro.ie), under About CRO/FOI/Payments over €20,000

### **Procurement**

- Details regarding any current tender competitions on the etenders website and any public contracts awarded are available on the Procurement webpage.

### **FOI Disclosure Log and Other Information to be Published Routinely.**

- Details of FOI requests made to the CRO in relation to non-personal requests are available on the FOI Disclosure Log webpage. The webpage is accessible on [www.cro.ie](http://www.cro.ie) under About CRO/FOI/FOI Disclosure Log.
- For further information of Freedom of Information, including the text of the Acts, please visit the government website [www.foi.gov.ie/](http://www.foi.gov.ie/)

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## 1. HOW TO GET INFORMATION

### 1.1 ROUTINELY AVAILABLE INFORMATION

It is important to bear in mind that we currently make information routinely available to the public in relation to its functions and activities. Such information, summarised below, will continue to be available informally without the need to use the FOI Act.

What is available?	Where is it available?	Contact details
<b>General information relating to CRO</b>	CRO website	www.cro.ie
	CRO Information unit	E-mail: <a href="mailto:info@cro.ie">info@cro.ie</a> Telephone: 01 804 5200
	CRO Public Office	Bloom House Gloucester Place Lower Dublin 1
	CRO annual business plan	www.cro.ie
<b>Information leaflets (a current list is available at Appendix 2)</b>	CRO website	www.cro.ie
	CRO Information Unit	E-mail: <a href="mailto:info@cro.ie">info@cro.ie</a> Telephone 01 804 5200
	CRO Public Office	Bloom House Gloucester Place Lower Dublin 1
<b>Register of companies/ business names</b>	CRO website	<a href="http://search.cro.ie/company/CompanySearch.aspx">http://search.cro.ie/company/CompanySearch.aspx</a> You can check free of charge certain vital information such as company name, registered office address and annual return date. Further company information is available to CRO customer account holders.
	CRO Information Unit	E-mail: <a href="mailto:info@cro.ie">info@cro.ie</a> Telephone: 01 804 5200
	CRO Public Office	Bloom House Gloucester Place Lower Dublin 1
<b>Legislation related to CRO's areas of activity</b>	Government Publications	<a href="mailto:Publications@opw.ie">Publications@opw.ie</a> Telephone: 01 647 6834

The FOI Act is designed to allow public access to information held by public bodies NOT routinely available through other sources. Access to information under the Act is subject to certain exemptions and involves particular procedures and time limits. This manual provides a guide to the structure of the CRO so as to help you access information both under the FOI Act and the Companies and Business Names Acts.

## 1.2 APPLICATIONS UNDER THE FOI ACT

The CRO will normally be obliged to respond to requests under the FOI Act within four weeks. The FOI officer for the CRO is also the FOI officer for the Registry of Friendly Societies (RFS).

### **Applications under the FOI Act should be addressed to:**

Mark Donoghue  
Freedom of Information Officer  
Companies Registration Office  
Bloom House, Gloucester Place Lower, Dublin 1  
Telephone: 01 804 5251  
Email: mark.donoghue@dbei.gov.ie

### **Requests for information must be in writing and must indicate:**

- your full name and address;
- that it is being made under the FOI Act;
- a day-time telephone number, if possible, so that you may be contacted quickly if it is necessary to clarify details of your request
- details of the information requested which must be as comprehensive and as specific as possible (if you have difficulty in identifying the precise records which you require, we will be happy to assist you in preparing your request);
- if necessary, the particular format in which the information is requested e.g. photocopy, disc, etc.

### 1.2.1 FOI DECISION MAKING IN THE CRO

Decisions on applications are made at a level not below Higher Executive Officer. Internal appeal decisions are made by officers of a higher grade.

## 1.3 RIGHTS OF REVIEW AND APPEAL

The FOI Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where the FOI officer in the CRO invokes these provisions to withhold information, the decision may be appealed.

Decisions in relation to deferral of access, charges, forms of access, etc. may also be the subject of appeal. Details of the appeals mechanisms are as follows:

### 1.4 INTERNAL REVIEW

You may seek internal review of the initial decision, which will be carried out by an officer at a higher level if:

- you are dissatisfied with the initial response received i.e. refusal of information, form of access, charges, etc., or
- you have not received a reply within four weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

## **Requests for internal review should be submitted in writing to:**

The Registrar,  
Companies Registration Office, Bloom House, Gloucester Place Lower Square, D1

Phone: 01 804 5260 E-mail: [Maureen.OSullivan@dbei.gov.ie](mailto:Maureen.OSullivan@dbei.gov.ie)

Such a request for internal review must be submitted within four weeks of the initial decision. The CRO must complete the review within three weeks. An internal review must normally be completed before an appeal may be made to the Information Commissioner.

### **1.5 REVIEW BY THE INFORMATION COMMISSIONER**

Following completion of the internal review, you may seek an independent review of the decision from the Information Commissioner. If you have not received a reply to your application for internal review within three weeks, this is deemed to be a refusal and you may appeal the matter to the Information Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner, 6 Earlsfort Terrace, Dublin 2, D02 W773

Telephone: 01-6395689

E-mail: [info@oic.gov.ie](mailto:info@oic.gov.ie)

Website: [www.oic.gov.ie](http://www.oic.gov.ie)

### **1.6 FOI FEES**

A detailed list of our fees chargeable on documents, or for services rendered, which are outside the scope of the FOI Act, are set out in Appendix 1. Fees for information falling under the FOI Act are set out in S.I. No. 531 of 2014 - Freedom of Information Act 2014 (Fees) (No.2) Regulations 2014.

## **2. OVERVIEW OF THE CRO**

### **2.1 MISSION STATEMENT**

The mission of the CRO is:

To oversee the highest possible rate and quality of annual return filing on the part of companies in accordance with the relevant statutory provisions and to ensure that information on companies published in turn by the CRO accurately reflects the information provided by those companies.

### **2.2 DESCRIPTION AND FUNCTIONS OF THE CRO**

We operate under the aegis of the Department of Business, Enterprise and Innovation and retain the files of all companies and business names registered in the Republic of Ireland.

Our main functions are as follows:

- incorporation of companies
- registration of business names
- registration of post-incorporation documents and changes in business name particulars
- enforcement, prosecutions, and striking companies off the companies register
- provision of information to the public

The Office is organised into ten functional areas: company incorporation, post-incorporation, mortgages/solvency (comprising liquidations, receiverships and examinerships), enforcement/restoration, business names, electronic filing, training/information, publications, administration and information technology.

### **2.3 SERVICES PROVIDED BY THE CRO**

#### **2.3.1 Principal services**

We are responsible for providing the following principal services:

- facilitating the incorporation of companies and the registration of business names;
- enforcing, in respect of companies, their obligations under the Companies Act, particularly with regard to the filing of annual returns and accounts;
- providing ready access by the public to information filed by companies;
- maintaining, in respect of information provided by companies, accurate records of data, in particular registered addresses, directorships and company secretary;
- maintaining an accurate and up to date register of charges;
- providing information resources for companies, officers and professional advisers in relation to their statutory obligations;
- increasing and broadening the electronic services offered in relation to filing and accessing documents from CRO and providing the necessary technical support to users of the electronic systems;
- ensuring, through effective and appropriate training programmes, that CRO personnel are equipped with the necessary skills/knowledge to carry out their work in an efficient and professional manner.

### 2.3.2 Public access to the Office

The CRO, located at Bloom House, Gloucester Place Lower, Dublin 1, is open to the public every working day from 9.30am to 4.30pm. The telephone service is operational from 10.00am to 12.30pm and from 2.30pm to 4.00pm Monday to Friday. Clients are also invited to contact the office by e-mail at [info@cro.ie](mailto:info@cro.ie).

### 2.3.3 CRO website

The CRO publishes a regular electronic bulletin giving up to date information on the office's procedures, practices and services. There is no charge for the bulletin. Instructions on subscribing to the service are available from [www.cro.ie](http://www.cro.ie).

Certain vital information, such as company name and registered office address, may be checked free of charge on our web search facility. This search facility provides round the clock access to company information. For further information regarding on-line services, visit [www.cro.ie](http://www.cro.ie), e-mail [electronic.filing@dbei.gov.ie](mailto:electronic.filing@dbei.gov.ie) or contact CRO Electronic Filing Section at 01-8045374/5355.

You can retrieve a free duplicate certificate of incorporation for a company or registration of a business name from [www.cro.ie](http://www.cro.ie). This certificate is valid solely for public service use, for example for submission to the Revenue. Once requested, the duplicate certificate is instantly e-mailed to you.

### 2.3.4 Electronic filing

You can complete a number of CRO Forms electronically through the CRO's electronic filing portal CORE – [www.core.ie](http://www.core.ie), or through the use of company secretarial software supporting e filing to the CRO. The following Forms are available to file electronically:

- Form A1 (incorporation of company)(LTD company)
- Form B10A (change in director's address/name - multiple companies)
- Form G1 (special resolution)
- Form G2 (ordinary resolution),
- Form B77 (notice of Electronic Filing Agent appointment/resignation),
- Form B69 (declaration that director or secretary has ceased to act as a company officer where the company has failed to file a B10)
- Form B3 (changes in where register is kept)
- Form F4 (change in address of branch of external Company)
- Form G1Q (change of company name resolution)
- Form RBN1 (business name form)
- Form RBN1A (business name partnership),
- Form RBN1B (business name body corporate)
- Form RBN3 (Notice of cessation of business name)
- Forms RBN2, RBN2a, RBN2b (change in the address of business name)

It is now mandatory to file certain registration forms online:

- Forms C1, C1A and C1B (Irish company) and Forms F8, F8A and F8B (external company) are now only available for online submission.
- Form B1 (annual return and financial statements)
- Form B2 (change in registered office address)
- Form B10 (changes in director/secretary or in their details)
- Form B73 (alteration of Annual Return Date)

Some electronic Forms can be e-signed with a ROS digital certificate. Manual signing is also possible by printing a signature page (which is associated with the e-Form submitted) and delivering it to the CRO.

### 2.3.5 Registers of companies and business names

There are three sources of company/business name information at the CRO:

- paper-based company file (for documents received up to 1989 for companies and 1998 for business names);
- electronically scanned documents;
- website.

#### Company file

A company file exists for all companies and business names registered before 3 May 1990 and 5 April 1998, respectively. Some of these files are available for inspection at the Office and may be retrieved between 9.30 a.m. and 4.15 p.m. Photocopying facilities can be used during this time. **[Most of these older files have now been scanned and their information can be downloaded.]**

To undertake a business name/company search, the full name or number of the company/business name must be ascertained. You can do this by either using the web search facility (see Web search facility below) or the public office search facility. By entering the company name/number on the public office computer the file is subsequently retrieved. There is a charge of €3.50 per company file search.

#### Computer printout

Company/business name information stored on the CRO database is available by computer printout, which reflects the most up-to-date information. It contains details of, for instance, a company's designation for example, normal, liquidation, receiver, dissolved, etc. Documents marked as "received" on the printout indicate that the document has not been checked for errors and where the documents contains data which is required to be entered on the CRO database, this data has not yet been entered.

Computer printouts are available online (see **Web search facility** below), in the CRO, or by post. The fee for a printout is €3.50 per company or business name search. A signed printout is €12. Requests for printouts should include the registered number of the company or business name. Where requests are made on the basis of a name, a printout will issue only on a name equivalent to that quoted in correspondence. Where there is no matching name on the database a reply will issue to that effect. Response times to written requests will depend on volume flows and the resources available to process requests.

#### Scanned documents

All company and business name documents received in the Office since 11 March 1991 and 5 April 1998 respectively are electronically scanned and stored on the computerised imaging system. Copies of scanned documents are also available online (see **Web search facility** below) or can be requested in the public office and cost €2.50 each. To request an image, you must enter the details on the computer in the public office.

### **Web search facility**

The online search facility provides clients with round the clock access to company information. The search tool is identical to that in our public office.

The following vital online information is provided free of charge:

- company name and company number
- company type
- registered office address
- annual return date
- made up to date of last annual return
- last accounts to date
- company status and company registration date

CRO customer account holders can also obtain the following more detailed information for a charge:

- company printout
- company documents (e.g. annual return with accounts)
- Certified copy of documents/printout

System failures are unfortunately unpredictable. A system is in place to allow failures to be monitored, aimed at ensuring recovery as soon as possible. Online services are not available during backup, reorganisation, maintenance or system failure.

### **2.4 COMPANY INFORMATION AT THE REGISTERED OFFICE**

All companies are obliged to provide access to certain company records:

- The register of members must be kept within the State at the registered office of the company, or any other office of the company at which the work of making it up is done, or if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, at the office of that other person at which the work is done.
- Copies of instruments creating charges must be kept at the registered office of the company, or any other office of the company at which the work of making it up is done, or if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, at the office of that other person at which the work is done. They are open only to the members and creditors of the company.
- The register of directors and secretaries and copies of directors' service contracts/memoranda must be kept at the registered office, or the place where the register of members is kept if other than the registered office, or at the company's principal place of business. The register of directors and secretaries is open both to members of the company/any other person.

These registers and copies of instruments, etc. shall, during business hours, be available for inspection for at least two hours every day. A company may charge a fee not exceeding €10 (one register)/€15 (two or more registers) (or lesser fee as provided for in the Companies Act) depending on the type of inspection.

## **2.5 DELIVERY OF DOCUMENTS TO THE CRO**

Under section 898 Companies Act 2014, if a document delivered to the CRO does not comply with the Companies Act 2014 (Form and Content of Documents delivered to Registrar) Regulations 2002 or with any other requirement of the Companies Act or any requirements imposed by or under any other legislation relating to the completion of a document and its delivery to the CRO, that document may be rejected by serving a notice on the presenter detailing the reason(s) for rejection. Registering documents involves checking the details and entering new data on the register of companies. Under section 898 Companies Act 2014, CRO may reject a document by serving a notice on the presenter detailing the reason for rejection.

Unless the presenter delivers to CRO, within 14 days, a replacement document that complies with the notice, the original document is deemed to not have been delivered to the CRO.

## 3. BREAKDOWN OF INTERNAL STRUCTURE AND ORGANISATION

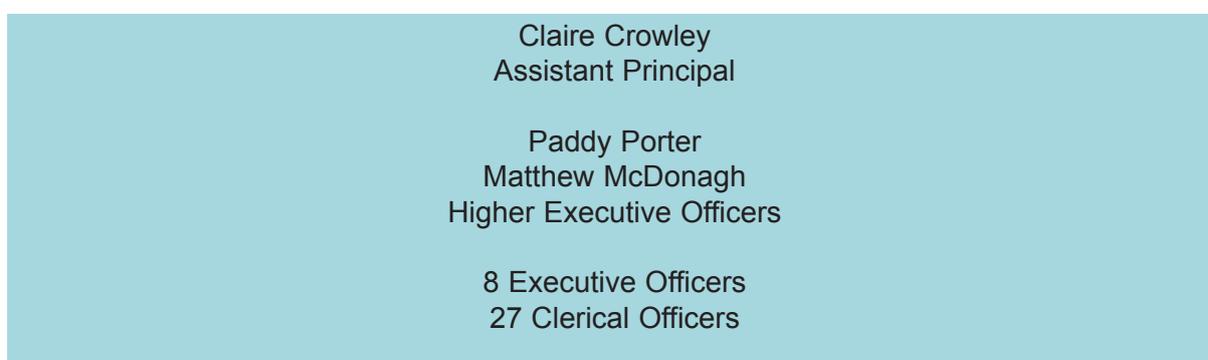
### 3.1 CARLOW OFFICE

#### 3.1.1 Structure and organisation

The role of the Carlow Office is to accept and process documents and accompanying payments received by post. The Carlow Office also deals with the registration of Business Names. The Public Office is in Bloom House, Gloucester Place Lower, Dublin 1 and documents can be submitted there in person. Bloom Square remains the postal address for the receipt of certain documents - <http://www.cro.ie/about-CRO/Contact-Us/Address-Location>.

The postal address in Carlow is the Companies Registration Office, O'Brien Road, Carlow. See link for address to submit documents: <http://www.cro.ie/about-CRO/Contact-Us/Address-Location>.

The structure of the section is:



#### 3.1.2 Delivery of service

The Office receives and records receipt of documents on the CRO database and it records payments received.

#### 3.1.3 Rules and practices

Customers must lodge the correct forms/documents with the correct prescribed fees, where applicable (see Appendix 1 for CRO fees).

All documents are subject to a cursory check. If details such as fees and effective dates are missing or incorrect or, in the case of the annual return, the made up to date does not comply with the Annual Return Date (ARD) requirement or the financial statements attached to an annual return are incorrect, the documents will be returned to the presenter. If a late penalty applies, the documents should be returned to CRO within 14 days to avoid further penalties accruing.

#### **CRO customer account (Form a/c1)**

Certain basic information on companies is available free of charge on the CRO website. Clients who wish to carry out detailed searches via the CRO website should open a customer account with the CRO. In order to request company printout and/or scanned images of documents, this account must have sufficient credit at all times. A customer account can also be used to lodge documents with the CRO. To open a CRO customer account, Form a/c1 must be completed in full and submitted to the CRO by post or online with payment. When an application is processed by the CRO, the client is supplied with a customer account number and

PIN number which he/she can use for online services.

### **Late Filing Penalty**

A late filing penalty of €100 becomes due in respect of an annual return on the day after the expiry of the filing deadline, which deadline is 28 days after the effective date of the return, with a daily penalty amount of €3 accruing thereafter, up to a maximum penalty of €1,200 per return. This penalty is in addition to the standard filing fee of €20 per return. Revenue have confirmed that late filing penalties are not tax deductible.

### **Extension of time to file**

Under section 343 of the Companies Act 2014, applications for an extension of time to file an annual return may be made to either the High Court or to the District Court. The Court may, if it is satisfied that it would be just to do so, make an Order extending the time in which the annual return of the company, in relation to a particular year, may be delivered to the Registrar of Companies. An application to the Court can only be made in respect of an annual return which has not already been delivered to the CRO. Only one Order may be made in respect of a particular year.

Application to the Court is made on notice to the Registrar by means of an Affidavit. The time period which may be extended by the Court is the 28 days after the ARD provided for in sections 343(2) and (3), CA 2014.

Where the Court makes an Order extending the time to file, the company must deliver the Order to the CRO within the time period specified in the Order, usually within 28 days of the Order being made.

If the company delivers the annual return to the CRO within the extending time period specified by the Court Order, that annual return will be deemed by the CRO to have been received on time and the consequences of late filing (late filing penalties / loss of audit exemption) will not apply to that annual return.

### **District Court - Application for Order extending time to file Annual Return**

Procedures to be followed: see also Information Leaflet 39.

Please note that a company must have legal representation when making an application to court:

1. An application must first be made to the District Court for the district in which the company's registered office is situated for a court date - see Courts Website.
2. A copy of the notice in Form 93B.1 containing the date and time of the court hearing must be served on the Registrar along with a copy of the company's Affidavit (Form 93B.2), thereby putting the Registrar on Notice in accordance with section 343(5), CA 2014. The Form 93B.1 must be signed by the Applicant or by the Solicitor for the Applicant.
3. The Notice to the Registrar must be delivered to the CRO not later than 21 days before the Court date. Otherwise it cannot be accepted.
4. The Form 93B.1 must state the annual return year in question, the company's current ARD, and the date to which the extension is sought. The time period which may be extended by the Court is the 28 days after the ARD provided for in sections

343(2) and 343(3) Companies Act 2014.

5. The CRO will issue a letter acknowledging that the Registrar has been put on Notice to the Applicant or its Solicitor which the company must provide to the Court, along with the Form 93B.1 and Affidavit not later than 4 days before the Court date.
6. If the Judge grants a Court Order extending the time to file, the Order will show (i) the date to which the extension is granted and (ii) the date by which the Order must be delivered to the Registrar (will normally be 28 days).
7. If the Court Order is not delivered to the Registrar by the date specified at 6(ii), it cannot be accepted by the CRO as the company will be in breach of the terms of the Order.
8. If granted an extension of time to file, the company must submit an e-B1 by the extended date and complete the filing within 28 days of that date.
9. If the company delivers or submits its annual return after the date to which the extension has been granted, it will be deemed to be late and will be subject to late filing penalties and loss of audit exemption for two years in the normal way.
10. If the original court date is changed or the case is adjourned, the company must immediately inform the Registrar of the new court date.

### **STATUTORY RETURNS**

#### **Change Of Registered Office (Form B2)**

Every company is required by law to file a notice of the situation of its registered office in the State. This is the address to which all official documents, notices, court papers are required to be sent by law. The address must be a physical location, not just a post office box number because people have the right to visit the company's registered office to inspect certain registers and documents and to deliver documents by hand.

A letter addressed to the company at its registered office address must be capable of being delivered by An Post. A company may notify any change in the location of its registered office by completing Form B2 online. This notification ought to be filed within 14 days of the change. It is an offence not to notify the CRO of a change in the registered office address (section 50 Companies Act 2014).

#### **Registered Office Agent (ROA)**

It is possible to have the registered office placed in the care of an authorised agent. The authorised agents information must be completed on Form B2 (where the address of the office is being changed). See section 50 Companies Act 2014. A company wishing to act as a registered office agent must complete B81 form. (Section 50 of the Companies Act 2014).

**It should be noted that any document left at or sent by post to the place recorded at the CRO as the situation of the registered office of a company is deemed by law to have been left at or sent by post to the registered office of the company, notwithstanding that the situation of its registered office may have changed (Section 51 Companies Act 2014 )**

### **Notice Of Change In Place (Form B3) Section 216(6) 2014 Act**

If the address where the register of members, disclosure interest register, register of directors and secretary, directors' service contracts/ memoranda, register of instruments creating charges and minutes of meetings are kept is (a) different to that of the registered office, or (b) being changed to that of the registered office from a different office, or (c) being changed from one address to another address which is not that of the registered office, Form B3 must be filed. Any change in place must also be notified to the CRO on this form within 14 days of the event.

### **Annual Return (Form B1)**

A company must file an annual return for every year (Form B1) to the CRO pursuant to section 343 of the Companies Act 2014. The annual return must be made up to a date not later than the Annual Return Date (ARD). Certain documents must be attached to the annual return (see Annual Financial Statements and reports below). The annual return must be filed in the CRO no later than 28 days after the date to which the return is made up. Annual returns filed late will incur a late filing penalty.

### **Annual Return Date (ARD)**

The first ARD is six months after incorporation and thereafter the anniversary of the most recent annual return filed. It is possible to move an ARD to an earlier or later date (see Information Leaflet No. 23, Filing an Annual Return in the CRO).

### **ANNUAL FINANCIAL STATEMENTS AND REPORTS**

Directors have obligations under section 175 Companies Act 2014 to prepare financial statements. A directors' report and an auditor's report (unless exempt from audit requirement) must be attached to the financial statements. The financial statements, attached to an annual return, should cover a period from the end of the last financial statements filed to the end of the most recent financial year. In addition, the date to which the financial statements are made up must not predate the date to which the annual return is made up by more than nine months.

Every balance sheet and profit and loss account must be signed on behalf of the director(s) by of the company (section 348 of the 2014 Act). Likewise, the report of the directors must be signed by the director(s) of the company (section 325 of the 2014 Act).

There must be a certificate certifying that the financial statements and reports are true copies of those laid before the AGM of the company. This certificate must be signed by a director and the secretary i.e. each balance sheet, profit and loss account, directors' report, auditor's report must be certified as a true copy of that laid before the AGM; or a general certificate certifying that the balance sheet, profit and loss account, directors' report and auditor's report are true copies of those laid before the AGM.

Public companies not trading for the acquisition of gain by the members prepare financial statements in accordance with the Companies Act 2014 (i.e. companies limited by guarantee and not having a share capital).

Annual financial statements and consolidated accounts of banks and other financial institutions must be prepared in accordance with the European Communities (Credit Institutions: Financial Statements) Regulations 2015.

Annual financial statements and consolidated accounts of insurance undertakings must be prepared in accordance with the European Communities (Insurance Undertakings: Financial Statements) Regulations 2015.

Certain unlimited companies and partnerships (including limited partnerships) are also obliged to prepare accounts and deliver them to the CRO.

### **Financial Statements**

Companies are required to keep proper books of account which give a true and fair view of the company's financial affairs. Companies are also required to disclose details of their financial statements at the Annual General Meeting (AGM) and to attach a copy of those financial statements to the annual return filed with the CRO.

In addition, they are required to observe certain standards in the preparation of financial statements, following specimen formats and disclosing certain information by way of notes to the financial statements.

The Companies Act 2014 requires directors of all companies to lay the following financial statements and reports before the company members at the AGM:

- a profit and loss account (or an income and expenditure account if the company is not trading for profit)
- a balance sheet
- a directors' report
- a statutory auditor's report

The annual financial statements and directors' report must be signed on behalf of the directors by two directors. (Where the company is an LTD Company, a Private Company Limited by shares, registered under the Companies Act 2014 and has only one director, the documents should be signed by the sole director).

The above-listed documents are required to be annexed to the annual return of a limited company on delivery to the CRO. (Micro and Small companies have certain exemptions). In addition, there must be a certificate, signed by both a director and the secretary, certifying that the financial statements and reports are true copies of those laid before or to be laid before the company's AGM.

### **Account Certification & Filing Financial Statements Electronically**

The Companies Act 2014 removes the requirement for financial statements documents filed with the CRO to include handwritten signatures of Directors, Auditors, etc, and, instead, requires that the signatures appear in typed form on each document.

Where financial statements are delivered to the Registrar, Section 347(2)(b), Companies Act 2014, requires that the copy of the Financial Statements annexed to the annual return must be accompanied by a certificate of a director and the secretary of the company, that bears the signature of the director and the secretary in electronic or written form stating that the copy is a true copy of the original. This certification is now included in the B1 form and when the B1 form is signed by a director and the secretary of the company, this requirement is fulfilled.

However, where the B1 form is filed by an Electronic Filing Agent (EFA), the EFA

cannot certify the financial statements of the company. In that case, the financial statements must be certified separately by a director and the secretary using a Financial Statements Certification sheet which must be attached to the B1

If a company fails to comply with the requirements, the annual return will be rejected by the CRO. In addition the company and every officer of the company who is in default will be liable to a category 3 offence - fine not exceeding €5000.

No financial statements are required to be annexed to the first annual return which is delivered by a company post-incorporation. This return is required to be made up to the date which is six months after the date of the company's incorporation. Privatae limited companies and public limited companies prepare annual financial statements in accordance with Parts 6/17 of the Companies Act 2014 respectively.

### **Obligations regarding Financial Statements in the Companies Act 2014**

The following new obligations in Part 6 of the 2014 Act were commenced in respect of financial years beginning on or after 1 June 2015:

- section 167: Audit committees
- section 225: Director's compliance statement and related statement
- section 305(1)b: Share options disclosure
- section 306(1): Payments to connected persons
- section 326(1)a: Director's names
- section 330: Directors' report: statement on relevant audit information).

### **Fixing of length of financial periods**

Under section 288 of the Companies Act 2014, the financial statements attached to a company's first full annual return (ie with financial statements) must cover the period from incorporation and must not be for a period longer than 18 months. Each subsequent financial year begins on the date immediately after the last financial year end date and must be for a period of no more than 7 days shorter or longer than 12 months.

Each subsequent financial year must begin on the date immediately after the last financial year end date and must be for a period of 12 months (+/- 7 days), unless the company files a Form B83 in which case the maximum of 18 months must not be exceeded.

### **Limited companies:**

Public limited companies and private companies limited by shares are required to prepare and file annual financial statements in accordance with Parts 17 and Part 6 respectively of the Companies Act 2014.

### **Not-for-profit limited companies:**

Companies Limited by Guarantee (a form of public company with limited liability which are not trading for the acquisition of gain by the members) are required to prepare and file financial statements in accordance with Parts 6 and 18 of the Companies Act 2014.

A Designated Activity Company limited by guarantee has to file financial statements with the CRO (i.e a company limited by guarantee and having a share capital which is not trading for the acquisition of gain by the members) in accordance with Parts 6

and 16 of the Companies Act 2014.

In both cases they must file financial statements unless exempted by the Charities Regulatory Authority or the Commissioner of Charitable Donations and Bequests for Ireland.

### **Group Financial statements:**

Group financial statements are prepared either under the Companies Act or IFRS financial reporting frameworks and are required under section 293 Companies Act 2014.

### **Unlimited companies and partnerships:**

An unlimited company is not necessarily exempt from the requirement to file financial statements as certain unlimited companies and partnerships (including limited partnerships) are obliged to prepare financial statements and deliver them to the CRO. Financial statements are required from such entities by virtue of section 1274 of the Companies Act 2014. Effectively, an unlimited company or partnership, where all the members thereof who do not have a limit on their liability, are companies limited by shares or by guarantee, is obliged to file financial statements.

## **FINANCIAL STATEMENTS: SIZE EXEMPTION**

### **Micro Sized Company**

**Size Exemption:** The size exemption does not apply to Public Limited or Public Unlimited companies.

Micro companies may be exempted from the full extent of the requirements relating to annual Financial Statements in respect of any financial year if in respect of that year and the financial year immediately preceding that year the company satisfies two of the three following conditions.

- Balance sheet total not exceeding €350,000
- Turnover not exceeding €700,000
- Employees not exceeding 10

### **Small Sized Company**

**Size Exemption:** The size exemption does not apply to Public Limited or Public Unlimited companies.

Small sized companies may be exempted from the full extent of the requirements relating to annual Financial Statements in respect of any financial year if in respect of that year and the financial year immediately preceding that year the company satisfies two of the three following conditions.

- Balance sheet total not exceeding €6m
- Turnover not exceeding €12m
- Employees not exceeding 50

### **Medium Sized Company**

Exemption

The size exemption does not apply to Public Limited or Public Unlimited companies. Medium sized companies have an exemption from the disclosure of remuneration for audit where in that year and the financial year immediately preceding that year the

company satisfies two of the three following conditions:

- Balance sheet total not exceeding €20m
- Turnover not exceeding €40m
- Employees not exceeding 250

### **Large Sized Companies**

Large companies have to file full financial statements which consist of

- full balance sheet
- profit and loss account
- auditor's report
- directors' report

There must be a general certification certifying the financial statements and the reports in total to be a true copy of financial statements and reports as laid or to be laid before the members at the AGM. The certification must be signed by a director and the secretary.

### **Group requirements**

Holding undertakings

In addition to preparing their own Financial statements, holding undertakings are required to prepare consolidated group financial statements and to lay them before the AGM at the same time as their own annual financial statements.

The requirement to prepare group financial statements is contained in section 293 Companies Act 2014, and states that: "Where at the end of its financial year a company is a holding company, the directors of the company, as well as preparing entity financial statements for the financial year, shall prepare group financial statements for the holding company and all its subsidiary undertakings for that financial year."

### **Audit Exemption**

Exemptions available in relation to Financial Statements.

Although the company must lay full Financial Statements before an AGM, depending on the type and size of the company it may be able to claim an exemption from filing full, or any, Financial Statements with the CRO. Companies meeting specific criteria could possibly claim one or more of the following exemptions:

- Micro/Small Company Audit Exemption
- Dormant Company Audit Exemption
- Size /abridgement Exemption
- Exemption from filing Financial Statements

**If an annual return is filed late, the company loses the entitlement to claim the audit exemption in the following two years.**

### **Financial Statements Filing Exemption**

The following companies may claim an exemption from filing Financial Statements with their annual return (a B1 Form will still be required to be filed with the CRO);

- Designated Activity Companies (DACs) formed for charitable purposes who stand exempt from filing Financial Statements with the CRO by an order made by the relevant authority. (The Charities Regulatory Authority (CRA)).
- Companies Limited by Guarantee (CLGs) formed for charitable purposes and stand exempt from filing Financial Statements by an order made by the relevant authority (CRA).
- Non-designated Unlimited Companies (ULCs) can claim an exemption from filing Financial Statements.

### **Specific Requirements of Different Types of Companies**

#### **Companies Limited by Guarantee (CLGs) and Designated Activity Companies (DACs)**

Sections 325(1)(c) and 329 of CA, 2014, do not apply to CLGs as these companies have no share capital they are not required to include in their directors report details in relation to acquisition or disposal of their own shares or interest in share and debentures, please see the relevant section of the Act for more information.

#### **Unlimited Company (ULC) requirements**

The following Unlimited Companies are subject to the requirements to the preparation and filing of Financial Statements (financial years beginning after 1 January 2017):

(Designated ULC' means—

- (a) an ULC that at any time during the relevant financial year—
  - (i) has been a subsidiary undertaking of an undertaking which was at that time limited,
  - (ii) has had rights exercisable in respect of it by or on behalf of 2 or more undertakings which were at that time limited, being rights which if exercisable by one of the undertakings would have made the ULC a subsidiary undertaking of it, or
  - (iii) has been a holding company of an undertaking which was at that time limited,
  
- (b) an ULC which is a credit institution or an insurance undertaking or the holding company of a credit institution or an insurance undertaking,
  
- (c) an ULC, all of the members of which are—
  - (i) companies limited by shares or by guarantee,
  - (ii) unlimited companies, each of whose members is a limited company,
  - (iii) partnerships which are not limited partnerships, each of whose members is a limited company,
  - (iv) limited partnerships, each of whose general partners (within the meaning of the Limited Partnerships Act 1907) is a limited company, or
  - (v) any combination of the types of bodies referred to in the preceding subparagraphs of this paragraph and paragraph (a), or
  
- (d) an ULC, the direct or indirect members of which comprise any combination of ULCs and bodies referred to in paragraph (c) such that the ultimate beneficial owners enjoy the protection of limited liability.

References to a limited company, an unlimited company, a partnership or a limited

partnership shall include references to a body which is not governed by the law of the State but which is comparable to such a limited company, an unlimited company, a partnership or a limited partnership, as may be appropriate.

References to an undertaking being limited at a particular time are references to an undertaking (under whatever law established), the liability of whose members at that time is limited.

‘general partner’ has the same meaning as it has in the Limited Partnerships Act 1907;

‘limited partnership’ means a partnership to which the Limited Partnerships Act 1907 applies; ‘partnership’ has the same meaning as it has in the Partnership Act 1890.”

References to (A)(iii) shall come into operation on 1 January 2022 for any financial year which commences on or after that date.

### **Auditor’s Report to members of the company**

The auditor’s report to the members of the company must be made in accordance with section 336 Companies Act 2014. Please also see: Auditor’s report where certain company types are otherwise exempt from filing Financial Statements with the annual return.

The following information is required in the Auditors Report.

- Whether they have obtained all the information and explanations which, to the best of their knowledge and belief, are necessary for the purpose of their audit.
- Whether, in their opinion, the accounting records of the company were sufficient to permit the Financial Statements to be readily and properly audited,
- Whether, in their opinion, information and returns adequate for their audit have been received from branches of the company not visited by them,
- In the case of entity Financial Statements, whether the company’s balance sheet and except where the exemption under s.304 is availed of, the profit and loss account are in agreement with the accounting records and returns,
- Whether, in their opinion, give a true and fair view – in the case of an entity balance sheet, of the assets, liabilities and financial position of the company as at the end of the financial year – in the case of an entity profit and loss account, of the profit or loss of the company for the financial year – in the case of group Financial Statements, of the assets, the liabilities, and financial position as at the end of the financial year and of the profit & loss for the financial year of the undertakings included in the consolidation as a whole, so far as concerns the members of the Company,
- Whether the statutory Financial Statements have been properly prepared in accordance with the relevant financial reporting framework and, in particular, with the requirements of the CA 2014 (and where applicable, Article 4 of the IAS Regulation)

The statutory auditors report will also state whether, in their opinion, the information given in the director’s report for the financial year is consistent with the statutory Financial Statements.

- **Under section 336(3a) CA 2014 (as amended), in the case of a micro company, compliance with the minimum requirements of the Companies**

**Act 2014 is presumed to give a true and fair view.**

- **Under section 336(5) CA 2014 (as amended), a qualifying micro company stands exempted from the requirement to prepare a directors report and thereby from the requirement for the auditors to make a statement regarding a directors report.**
- **Under s.336(8)CA 2014 (as amended by s.45 Companies (Accounting) Act 2017), if in the case of any statutory Financial Statements, the requirements of s.305-312 have not been complied with, the statutory auditors must include in their report, so far as they are reasonably able to do so, a statement giving the required particulars. (s.305 - 312 deal with director's remuneration /interests/benefits disclosure and with licensed banks disclosures). This does not apply, however, to companies which are exempt from these particular sections.**

Also the report shall in relation to each matter referred to in the points above contain a statement or opinion, as the case may be, which shall be either – unqualified or qualified and include a reference to any matters to which the statutory auditors wish to draw attention without qualifying the report. A statement of opinion may be qualified, including to the extent of an adverse opinion or a disclaimer of opinion, where there is a disagreement or limitation in scope of work.

Under section 336(2), the report should have an introduction that identifies the entity Financial Statements, and where appropriate, the group Financial Statements, that are the subject of the audit and the financial reporting framework that has been applied in their preparation and also a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.

#### **Termination/Removal of an Auditor (Section 394-399 Companies Act 2014)**

(1) Where a company decides to terminate the appointment of its auditor because the company is availing of the audit exemption,

- the Auditor must, within 21 days of being notified of the company's decision, send a notice to the company stating that they have been removed as Auditor under s.399 Companies Act 2014, and that there are no circumstances connected with the decision of the company to terminate their appointment that they consider should be brought to the notice of the members or creditors of the company OR if there are such circumstances, the Auditor must detail them in the notice to the company, and
- the Auditor must, within 14 days of the notice to the company, send a copy of that notice to the Registrar.

(2) A company may by ordinary resolution at a general meeting remove an Auditor (if it is in the best interest of the company)(section 394-395 Companies Act 2014) and appoint a new Auditor.

- The company shall within 14 days of the passing of the resolution give notice to the Registrar in the prescribed form (Form H3)(s.385(2)(b) Companies Act 2014).

Resignation of an Auditor (section 400 Companies Act 2014)

- Statutory Auditors may resign by notice in writing sent to the company

## **Notice That Proper Books Of Account Not Kept (FORM H4)**

If the auditors of a company form an opinion that the company is contravening, or has contravened section 281-285 Companies Act 2014 by failing to keep proper books of account, they shall serve a notice on the company as soon as may be, stating their opinion and they shall notify the CRO on Form H4 (Section 392 Companies Act 2014) within seven days of the service of that notice.

## **PROPER BOOKS**

### **Company Financial statements and the euro**

The requirement that a company keep proper books of account is contained in section 282 of the Companies Act 2014.

Section 282 provides that every company shall cause to be kept adequate accounting records, whether in the form of documents or otherwise that -

- correctly record and explain the transactions of the company,
- enable, at any time, the assets, liabilities, financial position and profit and loss of the company to be determined with reasonable accuracy,
- enable the directors to ensure that any financial statements of the company required to be prepared under section 290 or 293, and any directors report required to be prepared under section 325, comply with the requirements of the Companies Act, and where applicable, Article 4 of the IAS Regulation: and
- enable those financial statements of the company so prepared to be audited.

### **The requirement for an Auditor to be registered**

Where an auditor's report is required to be filed with the CRO, the officers of the company must ensure that their auditor is registered on the Public Register of Auditors which may be viewed on the CRO website - [www.cro.ie](http://www.cro.ie).

The B1 form must include the Auditor Registration Number (ARN) of the auditor which must exactly match that of the individual auditor or firm of auditors whose name appears on the auditor's report included in the Financial Statements.

Filing false information with the Registrar of Companies is a category 2 offence under the Act under section 406 Companies Act 2014 and acting as an auditor when not qualified to do so is an offence prosecutable by the Office of Director of Corporate Enforcement (ODCE).

## **AUDITOR SEARCH**

### **The Register**

The Register of Auditors is maintained by the Registrar of Companies and contains the names and addresses of persons or firms who have been notified to her as qualified for appointment as auditor of a company or a public auditor.

### **Notifications**

Periodically electronic lists are submitted to the CRO by the recognised bodies and these are uploaded onto the electronic register. A person or firm cannot act as an auditor if their details have not been forwarded to the CRO.

### **How are Audit Firms and Auditors Regulated**

The European Union (Statutory Audits) (Directive 2006/43/EC as amended by Directive 2014/56/EU and Regulation (EU) No 537/2014) Regulations 2016, (SI

312 of 2016). The CRO is the Competent Authority for making the Auditor Register available to the public. Each Auditor is regulated by one of the Recognised Accountancy Bodies (RAB) detailed below.

The regulatory system of RABs involves the following:

- Registration processes, Monitoring, Investigation and discipline

The RABs are also subject to independent oversight by The Irish Auditing and Accounting Supervisory Authority (IAASA).

### **Recognised Accountancy Bodies**

In order to act as an Auditor a person must be a member of a body of accountants recognised by the Minister for Business, Enterprise and Innovation. The bodies currently recognised are:

- ICAI - Institute of Chartered Accountants of Ireland
- ICAEW - Institute of Chartered Accountants in England and Wales
- ICAS - Institute of Chartered Accountants of Scotland
- CPA - Institute of Certified Public Accountants in Ireland
- ACCA - The Association of Chartered Certified Accountants

### **Individually Recognised (IR) Auditors**

There are a number of auditors recognised by virtue of the fact that they were authorised by the Minister in advance of the legislation regarding recognised bodies. These can be identified on the register of auditors by the Accreditation Body code IR.

### **Auditor Search Terms**

You can search for an auditor by entering a first name, surname or a firm name. If you do not find a match immediately you should try all combinations as some of the recognised bodies supply only the firm name, others only the person name and others supply both.

The website lists only those auditors who are currently accredited according to the information supplied to us. Auditors whose accreditation has ceased are not listed.

#### **3.1.4 Contact points - Carlow**

Name	Area of responsibility	Telephone	E-mail
Matthew McDonagh	Section manager	059-917 8535	matthew.mcdonagh@dbei.gov.ie
Carlow Email address			crocarlow@dbei.gov.ie
Accounts		059-917	8863/8859/8826/8855/8878/8823/8837/8825 CRO.Customer.accounts@dbei.gov.ie

## 3.2 PUBLIC OFFICE

### 3.2.1 Structure and organisation

The Public Office's role (Dublin only) is to provide a front line service for callers to the CRO. The structure of the section is:

Assistant Principal Claudine Forrest
Higher Executive Officer Gavin Regan
1 Executive Officer 5 Clerical Officers

### 3.2.2 Delivery of service

The principal services the Public Office provides are:

- facilitating the collection and dispatch of documents;
- processing orders for company printouts and electronically scanned documents;
- facilitating the inspection of the paper-based file of companies incorporated prior to computerisation;
- providing general information;
- processing requests, in person or by post, for duplicate certificates of incorporation for a company or registration of a business name.

The Office receives and records receipt of documents on the CRO database.

### 3.2.3 Rules and practices

Customers are required to pay the prescribed fees chargeable on documents requested or services rendered (see Appendix 1 for CRO fees). The Public Office aims to ensure customers have access to scanned images and printouts within 15 minutes, and to older paper files within 30 minutes.

All documents are subject to a cursory check at the Lodgement Office. If details such as fees and effective dates are missing or incorrect, the documents will be returned to the presenter. If a late penalty applies, the documents should be returned to us within 14 days to avoid further penalties accruing.

### 3.2.4 Contact points

Name	Area of responsibility	Telephone	E-mail
Gavin Regan		01 8045311	Gavin.regan@dbei.gov.ie

### 3.3 INFORMATION

#### 3.3.1 Structure and organisation

Information Unit's role is to provide an information service on CRO to the public.

The structure of the unit is:

Assistant Principal Claudine Forrest
Gavin Regan Higher Executive Officer
1 Executive Officer 8 Clerical Officers

#### 3.3.2 Delivery of service

Information Unit provides a front line service to customers who contact the Office by telephone, post and e-mail, and it organises the CRO's participation at exhibitions and seminars.

#### 3.3.3 Rules and practices

When the telephone lines are busy or calls are made outside office hours, messages may be left on the office voice mail system. Clients are also invited to contact the office by e-mail at [info@cro.ie](mailto:info@cro.ie).

#### 3.3.4 Classes of records held

The following series are held:

Introduction to the Information Unit  
Telephone System  
Administration  
Written queries from the public  
Exhibition/Open Days  
General Staff Circulars

#### 3.3.5 Contact points

Name	Area of responsibility	Telephone	E-mail
Gavin Regan	Section manager	01 804 5311	<a href="mailto:gavin.regan@dbei.gov.ie">gavin.regan@dbei.gov.ie</a>
Information		01 804 5200	<a href="mailto:info@cro.ie">info@cro.ie</a>

## 3.4 NEW COMPANIES

### 3.4.1 Structure and organisation

The role of New Companies Section is to process applications to incorporate new companies, to change a company name and to re-register a company type; to process applications to exempt the company suffix from the name of a company; to process applications for a public limited company to commence trading; to assess complaints made, within six months of the date of incorporation of a company, that a company name is too like the name of a company already registered.

New Companies Section also processes applications for Cross Border Mergers, Societas Europaea, European Economic Interest Groupings (EEIGs), Undertakings for Collective Investment in Transferable Securities (UCITS) and Limited Partnerships.

The structure of the section is:

Assistant Principal Dermot Madden		
Pat Daly Higher Executive Officer		
<i>Ordinary Incorporation Scheme</i>	<i>Fé Phráinn/Online A1 Schemes</i>	<i>Change of Name</i>
1 Executive Officer	4 Executive Officers 2 Clerical Officers	1 Executive Officer

### 3.4.2 Delivery of service

The section is responsible for checking, registering and scanning documents for public availability and in doing so providing an effective, efficient and accessible source of company information to clients.

### 3.4.3 Rules and practices

#### Checking documents

Registering documents involves checking the details and entering new data on the register of companies. Where documents are inaccurately or not fully and properly completed, the documents are returned to the presenter for correction.

#### Company incorporation

A Form A1 must be completed correctly and filed with this Office along with the relevant constitution for the specific company to be incorporated. For further information, go to [www.cro.ie](http://www.cro.ie) or see Info Leaflet No 1, Company Incorporation.

For a Private Company Limited by Shares (LTD company) the constitution consists of a one document constitution. All other company types have a constitution that includes a Memorandum and Articles of association.

It is also possible to reserve a company name online using CORE for a fee of €25. Please see also Info Leaflet No. 1 which deals with Company Incorporation.

## Registration Methods

Applications to incorporate companies can be submitted under any one of three schemes, each of which has a different customer service standard.

### Schemes

- Ordinary: while there is no guaranteed service level, in practice it takes 15 working days.
- Fé Phráinn: ten working days
- Online A1: five working days

Documents are processed in chronological order and are subject to checks. Documents returned for correction are processed according to their date of re-submission to the CRO.

## Company officers

All company types (with the exception of the Private Company Limited by Shares) must have one secretary and a minimum of two directors, one of whom must be an EEA (European Economic Area) Member State resident. The secretary may be one of the directors of the company, except in the case of a single director company, there must be a separate secretary. A body corporate may act as secretary to another company, but not to itself.

All companies are required to have an EEA-resident director. If none of the directors are resident in an EEA Member State, the application must be accompanied by a bond, in the prescribed form, in force to the value of €25,000 as surety for any fines that may be imposed on it.

In addition, a director may not, at a particular time, be a director of more than 25 companies (with exceptions).

For further information, see Information Leaflet No. 16, The Company Secretary; Information Leaflet No. 17, Requirement to have EEA Member State Resident Director; and ODCE's Information Book 2, Company Directors.

## Company Models

There are a number of types of private company, which can be incorporated under the Companies Act 2014:

- Private company limited by shares (LTD)
- Designated Activity Company (DAC) limited by shares
- Designated Activity Company (DAC) limited by guarantee
- Private Unlimited Company (ULC)

There are several types of public company:

- Public Limited Company (PLC)
- Public Unlimited Company (with shares)(PUC)
- Public Unlimited Company (without shares)(PULC)
- Company Limited by Guarantee (CLG)
- Societas Europaea (SE)

### **Change of name**

In order to change the name of an existing company a Form G1Q with an amended memorandum and articles of association giving the details of the new name must be filed with the Office pursuant to sections 30 and 198 Companies Act 2014.

See Information Leaflet No. 1, Company Incorporation, for the restrictions that apply to company names. For further information on the process, see Information Leaflet No. 8 Change of Name. The customer service standard for processing correctly completed documents is ten working days.

### **Re-registration (from one company type to another)**

Most company re-registration types can be completed by the submission of Form D20 along with a special resolution and a copy of the new constitution. Certain types of re-registration may require the submission of additional documents. Please see Part 20 of the Companies Act 2014 and Information Leaflet 35 for more information.

### **Public limited company to Societas Europaea (SE). (Form SE4 and SE12).**

A plc may be converted into an SE where the plc has for 2 years had a subsidiary governed by the laws of another Member State. See information leaflet 19 regarding SE's.

### **Conversion of an industrial and provident society to a company**

An application must be made to the Registrar of Friendly Societies (RFS) indicating that the society wishes to convert to a company. On approval, a completed Form A1 with a memorandum and articles of association, together with the appropriate fee (see Appendix 1), are filed with the CRO. A certificate of incorporation is issued on registration of the new company. The customer service standard for processing correctly completed documents is ten working days.

### **Exemption of company type from Company Name from the use of the Company suffix as part of the company name**

Pursuant to section 971(8), 980 and 1180(8) of the Companies Act 2014 a company can apply on Form G5 to have the suffix "Designated Activity Company/Company Limited by Guarantee" dropped from the company's name where the objects of the company will be the promotion of commerce, art, science, education, religion or charity. In addition, the company's memorandum or articles of association/constitution must state that:

- the profits of the company (if any) or other income are required to be applied to the promotion of the objects;
- payment of dividends to its members is prohibited;
- all assets which would otherwise be available to its members are required to be transferred on its winding up to another company whose objects are the promotion of commerce, art, science, religion or charity.

It should be noted, however, that a company which is exempt from the obligation to use the suffix as part of its name is still obliged to show on its letters and order forms the fact that it is a CLG or a DAC as appropriate.

For further information, see Info Leaflet No 24, Exemption from the use of the suffix as part of the company name, or Info Leaflet No. 25, Licences granted prior to 1 March 2002 by the Minister of Business, Enterprise & Innovation exempting a company from the use of the suffix as part of its name.

The customer service standard for processing correctly completed documents is ten working days.

### **Permission for a public limited company to commence trading**

In order to commence trading, a public limited company must file Form A4, pursuant to section 1010(2) Companies Act 2014. When the application has been processed, a certificate of a public company entitled to do business is issued to the company. The customer service standard for processing correctly completed documents is ten working days.

### **Appeal procedure against company name**

A complaint, pursuant to section 30(3) of the Companies Act 2014, that a company name is too like the name of a company already on the register may be made to the Registrar of companies in writing. The complaint must be made within six months of the date of registration of the named company.

Where the Registrar considers that the complaint has foundation, i.e. that the name complained of is too like the name of a company that is already incorporated, the Registrar may direct that company to change its name within six weeks. Should the company fail to carry out this direction it shall be liable to a fine. Alternatively, the matter may be dealt with by way of referral to the High Court under the terms of section 797 Companies Act 2014.

The power of the Registrar to issue a direction to a company is strictly time-limited. If a period of six months has elapsed since the date of incorporation of the company against whom the complaint is made, the Registrar has no power to issue a direction pursuant to section 30(3). The foregoing, however, does not affect any claim that a company may have against a third party for “passing off”.

#### **3.4.4 Classes of records held**

The following series are held:

Administration  
Serving the Political System

#### **3.4.5 Contact points**

Name	Area of responsibility	Telephone	E-mail
Pat Daly	Section manager	01 804 5277	pat.daly@dbei.gov.ie
Christy Donegan	Fé Phrainn & Online A1 schemes	01 804 5384	christy.donegan@dbei.gov.ie
Andrea Bailey	Ordinary scheme	04 804 5479	andrea.bailey@dbei.gov.ie
Eileen Geoghegan	Re-registration, change of name & UCITS	01 804 5388	eileen.geoghegan@dbei.gov.ie

## 3.5 POST INCORPORATION UNIT A

### 3.5.1 Structure and organisation

The role of Post Incorporation Unit A is to process the majority of post incorporation documents.

The structure of the unit is:

Assistant Principal Dermot Madden
Higher Executive Officer Suzanne Flood
1 Executive Officers
6 Clerical Officers

### 3.5.2 Delivery of service

The unit is responsible for the scanning of all documents received in the Dublin Office and the registration of post incorporation documents such as, changes of director or secretary or in their particulars. The Unit aims to provide an effective, efficient and accessible source of company information to customers.

### 3.5.3 Rules and practices

#### Processing documents

Post Incorporation Unit A scans and registers documents. Documents are scanned for the public record and registered later.

Registering documents involves checking the details and entering new data on the register of companies. Where errors are identified, the documents are returned to the presenter for correction. Under section 898 Companies Act 2014, CRO may reject a document by serving a notice on the presenter detailing the reason for rejection.

Unless the presenter delivers to CRO, within 14 days, a replacement document that complies with the notice, the original document is deemed to not have been delivered to the CRO.

#### Background

The Companies Act 2014 imposes a number of obligations on companies to make returns to the CRO within specified time limits.

The principal post-incorporation requirements of companies and requirements for the submission of the most common statutory returns are outlined below.

## REQUIREMENTS FOLLOWING INCORPORATION OF A COMPANY

### Register Location -

The CRO must be notified if either the address where the following registers are kept is (a) different to that of the registered office, or (b) being changed to that of the registered office from a different office, or (c) being changed from one address to another address which is not that of the registered office.

- Register of the members,
- the directors' and secretaries' register,
- copies of instruments creating charges,
- copies of directors' service contracts and memoranda,
- disclosable interests register and
- minutes of meetings.

### **Change in Location of register**

Any change in location of these registers must be notified to the CRO on Form B3 forthwith. Registers must be maintained within the State. The documents can be kept at the registered office or principal place of business in the State. If they are not maintained at either of these places, all the registers not maintained there, should be maintained at a single address.

Members of the company, the officers of the company and the general public may inspect the following records:

- Register of the members,
- the directors' and secretaries' register,
- disclosable interests register

A creditor of the company may inspect the copies of the instruments creating charges.

### **Annual General Meeting**

Under section 175(3) Companies Act 2014, a private company limited by shares registered under Part 2 Companies Act 2014 (LTD company) may dispense with the requirement to hold an Annual General Meeting (AGM). A LTD company can avoid holding an AGM where all the members entitled to attend and vote at such general meeting sign a written resolution acknowledging receipt of the financial statements, resolve all such matters as would have been resolved at the AGM and confirm no change in the appointment of the Auditors (if any appointed).

All other company types must hold a general meeting as its AGM each year. This must be in addition to any other meeting held in that year. The meeting must be specified as such in the notice calling it. Not more than 15 months should elapse between the date of one AGM and the next AGM.

Companies should note that the 15 month option may not always be availed of by them. If a company holds its AGM in October of one year it must hold its AGM for the following year, by 31 December at the latest, in order to fulfil its obligation of holding an AGM in every year. In this instance, there would only be 14 months between AGMs.

As long as a company holds its first AGM within 18 months of incorporation, it need not hold it in the year of its incorporation or the following year. Please see section 3.8.3 for rules and practices.

### **Company name**

A company is required to paint or affix its name in a conspicuous place, in legible letters, on the outside of every office or place in which its business is carried on.

A company is further required to have its name mentioned in legible characters in all business letters of the company and in all cheques, invoices and receipts of the company. A fine may be imposed on the company and on any officer in default for breach of the foregoing. If an officer of a company issues or authorises the issue of any business letter of the company or signs a cheque or order for goods, and the name of the company is not mentioned in legible characters, that officer is liable to be fined and will also be personally liable unless the amount due on foot of the cheque or order for goods is paid by the company. See Information Leaflet 7.

### **Company letterhead**

The following particulars must be shown on all business letters:

- (a) the full name of the company (note that the only permissible abbreviations are “Ltd” for “Limited”, “Teo” for “Teoranta”, “Plc” for “Public Limited Company”, “DAC” for “Designated Activity Company”, etc)
- (b) the forename (or initials) and surnames and any former forenames and surnames of the directors and their nationality, if not Irish.

The following additional particulars must be shown on letters and are also required to appear on order forms of all limited liability companies, whether they are in paper form or any other medium:

- (a) the legal form of the company;
- (b) the number under which it is registered in the office of the Registrar i.e. as per the company’s Certificate of Incorporation and the place of registration
- (c) address of the registered office (where this is already shown on the document, the fact that it is the registered office must be indicated)
- (d) in the case of a company exempt from the obligation to use the company type as part of its name, the fact that it is such a company type (applies to Designated Activity Companies, and Companies Limited by Guarantee only)
- (e) in the case of a company which is being wound up, the fact that it is so
- (f) if the share capital of a company is mentioned on letterheads or order forms of a company, the reference must be to the issued share capital. These particulars apply only to business letters and order forms, and do not need to be included on delivery notes or invoices.

Every company that has a website is also required to display either on its homepage or to be identified on its homepage, a readily accessible webpage on which the following appear:

- (a) the name and legal form of the company
- (b) place of registration of the company and the number with which it is registered
- (c) address of the registered office of the company
- (d) in the case of a company exempt from the obligation to use the company type as part of its name, the fact that it is such a company type (applies to Designated Activity Companies, and Companies Limited by Guarantee only)
- (e) in the case of a company which is being wound up, the fact that it is being wound up
- (f) if the share capital of a company is mentioned on the website, the reference must be to the issued share capital

It should be noted that the above publication and disclosure requirements apply to

an Irish registered company, irrespective of whether it is carrying on business under a business name. The fact that a company may be carrying on a business under a business name does not exempt it from the above requirements.

### **Seal**

Every company must have its name engraved in legible characters on its seal. The company secretary is frequently given responsibility for the safekeeping of the company's seal.

### **CHANGE OF DIRECTOR/SECRETARY OR DETAILS (FORM B10, B69)**

Form B10 is filed by a company in order to notify the appointment of an officer post-incorporation, the cessation of an officer's appointment (resignation, death, removal, etc.) and to notify the CRO of a change in particulars in relation to an officer e.g. change of name or a new residential address. Form B10 must be completed online. See [www.core.ie](http://www.core.ie).

Form B10 is required to be sent to the CRO within 14 days of the change occurring (section 149(8) Companies Act 2014) Failure to file Form B10 constitutes an offence. The minimum number of directors that a company is required to have is two with the exception of a private company limited by shares (LTD company) which, under section 128 Companies Act 2014, may choose to have only one director.

For all other company types, Form B10 will be returned by the CRO to the presenter if no replacement director is notified on Form B10, and the termination of a directorship would result in the company having less than the statutory minimum of two directors.

Where there has been a continuing failure by a company, despite demand, to file a Form B10, the person concerned may file Form B69 with the CRO (section 152(3) Companies Act 2014). For further information, see Information Leaflet No. 18, Procedures regarding notification by director/secretary of his/her own resignation.

Where a person holding the office of secretary/director has died, a person may give notice of this to the CRO on Form B10, notifying it as to the termination of appointment of the secretary/director and his/her replacement.

If a European Economic Area (EEA) resident director ceases to be a director and, to his/her knowledge, no other director is resident in a member State, that person must notify the CRO in writing (no form) of that fact within 14 days of the cessation.

All companies are required to have an EEA-resident director. The requirement to have at least one EEA-resident director does not apply to any company which for the time being holds a bond, in the prescribed form, in force to the value of €25,000 or a section 140 certificate from the Registrar of companies that the company "has a real and continuous link with one or more economic activities that are being carried on in the State". For further information, see Information Leaflet No. 17, Requirement to have EEA-Resident Director.

### **Registered Person (person to bind the company)**

Notice of appointment/revocation of authorization of Registered Person (person to bind the company) (Form B46) - Section 30(1) 2014 Companies Act.

### 3.5.4 Classes of records held

The following series are held:

Staff Matters  
Correspondence  
Legislation  
Statistics  
Auditors  
Administration

### 3.5.5 Contact point

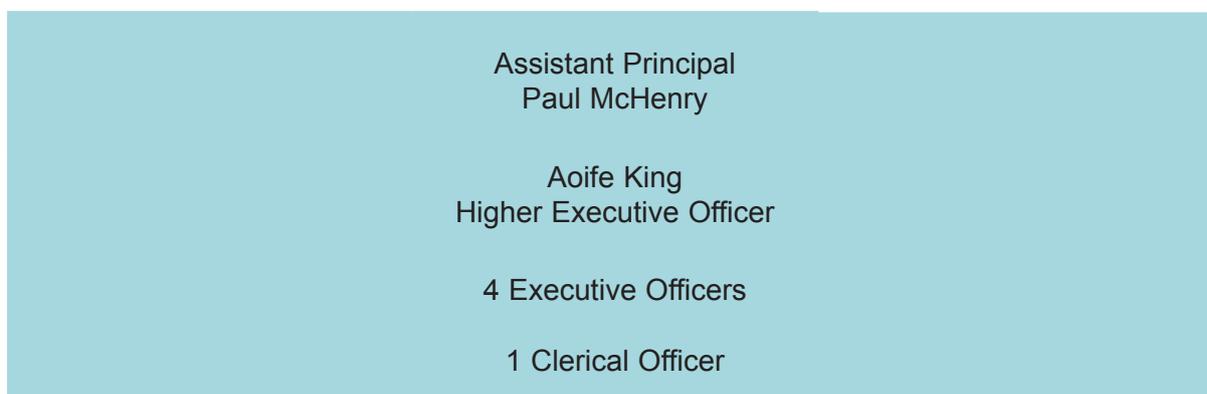
Name	Area of responsibility	Telephone	E-mail
Suzanne Flood	Section manager	01 804 5370	<a href="mailto:suzanne.flood@dbei.gov.ie">suzanne.flood@dbei.gov.ie</a>

## 3.6 MORTGAGES/CHARGES

### 3.6.1 Structure and organisation

The role of Mortgages/Charges Section is to maintain an accurate and up to date register of charges.

The structure of the section is:



### 3.6.2 Delivery of service

The section is responsible for ensuring that particulars of mortgages and charges, including satisfaction of such mortgages and charges, are registered as expediently as possible, and in accordance with the provisions of the Companies Act 2014.

### 3.6.3 Rules and practices

The Companies Act 2014 introduced a new priority regime for charges and a new set of processes for registration. (1st June 2015).

Forms :

- C1 Particulars of a charge created by a company incorporated in the State
- C1a Notice of intention to register particulars of a charge created by a company incorporated in the State. First stage of two stage procedure
- C1b Confirmation of particulars of a charge created by a company incorporated in the State. Second stage of two stage procedure.
- C3 Particulars of a charge subject to which property has been acquired by a company incorporated in the State
- C6 Satisfaction of a charge or judgment mortgage
- C7 Partial satisfaction of a charge or judgment mortgage
- C10 Particulars of a judgment mortgage
- C17 Changes to the particulars of the charge holder/lender of a charge
- F8 Particulars of a charge created by a company incorporated outside the State
- F8a Notice of intention to register particulars of a charge created by a company incorporated outside the State. First stage of two stage procedure.
- F8b Confirmation of particulars of a charge created by a company incorporated outside the State. Second stage of two stage procedure
- F9 Particulars of a charge subject to which property has been acquired by an external company.

### Charges - Priority Regime

Section 412(3) Companies Act 2014 provides that the priority will be determined by the date and time of receipt by the Registrar of a fully filed charge submission. The

date of creation of the deed of charge no longer determines its priority.

Details of mortgages or charges created by a company must be delivered to the CRO within 21 days either of the creation of the charge or of notice to create the charge. If a company fails to register the charge within 21 days this would have the effect of making the charge void against a liquidator of the company and any creditor of the company.

Section 409 introduced filing procedures, including a new two-stage procedure. Section 409(9) provides that the Registrar will not accept deeds or supplemental documents.

### **Mandatory E-filing with ROS signature**

In order to establish certainty on the date and time for the purposes of priority, and visibility of charge submissions on the Register, e-filing with a ROS signature has been mandated by Order of the Minister in accordance with Section 897 of the Companies Act 2014. When charge submissions are e-filed and electronically signed, the date and time for the purposes of priority is automatically established.

Forms C1, C1A and C1B and F8, F8A and F8B are now available for online submission with a ROS signature. The ROS Cert or Sub-Cert must be in the name of the person signing the form, the company name is not sufficient for filing purposes.

Two separate individuals are required to sign, one on behalf of the company, and another on behalf of the charge holder. In this regard please ensure that they are both carefully entered in the Form/s as signatories. Please note that the full name must be stated and not a shortened version (eg first name initial, surname).

It is of particular importance that such individuals can be clearly identified when using the ROS signatures, hence the requirement for their ROS Certs or Sub-Certs to be in their own name and for this to match the name inputted as signatory on the Form.

When the same name is inputted on the Form/s for both signatures an error will occur. Where the name on the ROS Cert does not generally match the name on the Form an error will occur. Both these errors will prevent the Form from being successfully submitted.

The e-filing procedures available are the one and two stage procedures:-

### **One Stage Procedure**

Under the one stage procedure an efiled and ROS signed C1 must be submitted to the CRO within 21 days of the creation of the charge. Signatures on behalf of both parties are required on the C1. A different signatory is required for each party. The full name of each signatory must be provided on the C1. The name of the signatory must be verified by the ROS Cert or Sub-Cert. Once the second ROS Cert is applied, the C1 is submitted and the date and time for the purposes of priority is automatically established.

### **Two Stage Procedure**

Under the two stage procedure, an e-filed and ROS signed C1A-notice of intention

to create a charge, followed within 21 days by an e-filed and ROS signed C1B-confirmation of creation of the charge, will receive priority from the date and time of the e-filed C1A.

Under the two stage procedure, both parties may sign the C1A, and the C1B, however the signing requirement is that if either party has not signed the first stage (C1A), they must sign the second stage (C1B). A different signatory is required for each party. The full name of each signatory must be provided on the C1A and the C1B. The name of the signatory must be verified by the ROS Cert or Sub-Cert. When the C1B is ROS signed and submitted, the date and time for the purposes of priority is determined by the C1A filing.

No extension of time for registration can be given by the CRO. Consequently, registration cannot be effected where applications have been received by the CRO outside the 21 day time limit, or where amendments or alterations have been made outside that time limit to particulars lodged within the time limit.

If a company has failed to comply with section 409, an application may be made under section 417 to the High Court for an order extending the time for registration. If an omission or miss-statement of any particular charge is noticed after registration, an application for an order rectifying the particulars can also be made to the Court.

When the CRO is satisfied that the statutory requirements have been met, a certificate of charge is issued. The certificate is conclusive evidence that the requirements of the Companies Act 2014 have been complied with.

The prescribed forms for submission of particulars of a charge are:

In the case of a company incorporated in the State:

- Electronic-Form C1 - Application to register particulars of a charge in the State
- Electronic-Form C1a - Application to register particulars of a charge in the State (stage 1 of two stage procedure) (Form C1b has no fee).
- Electronic Forms C1, C1a and C1b - Particulars of a Charge created by a company incorporated in the State, must be filed electronically using [www.core.ie](http://www.core.ie).

Please see Information Leaflet no. 27 for more information

### **External Companies**

The procedures and forms outlined above refer to Irish registered companies. Foreign or external companies which establish a branch in the State are obliged to register with the CRO under Companies Act, 2014.

Where a registered external company creates a charge over a property in the State, which charge requires to be registered with the CRO pursuant to Part 7 Companies Act 2014, the requisite particulars of the charge are required to be delivered to the Registrar of Companies. Such charges will be registered by the CRO and a certificate of registration will be issue to the presenter in due course.

If an external company fails to comply with the requirement to deliver to the CRO the charge will be void against the liquidator and any creditor of the company.

The prescribed forms for the submission of particulars of a charge are:

Form F8 electronic - Application to register particulars of a charge in the State

Form F8a electronic - Application to register particulars of a charge in the State (stage one of a two stage procedure) (Form F8b electronic has no fee).

Electronic Forms F8, F8a and F8b - Particulars of a Charge created by an external company, must be filed electronically using [www.core.ie](http://www.core.ie).

### **Judgment Mortgage**

A creditor who has recovered judgment in the courts for a sum of money owed may convert the judgment into a mortgage affecting property owned by the debtor.

Section 413 Companies Act 2014 provides that, where a judgment is recovered against a company and such judgment is subsequently converted into a judgment mortgage affecting any property of the company, the Property Registration Authority will then inform the creditor of the creation of the charge.

The creditor must then submit Form C10 - Judgment Mortgage to the CRO within 21 days of notification from the Property Registration Authority. The Property Registration Authority should notify the company within 3 days of the creation.

Hence, a copy of the affidavit, duly certified, must be received by the CRO within 24 days of the date of creation.

Form C10 must be accompanied by the relevant judgment mortgage document. A certified copy, as appropriate of Form 60, 60a or 60b set out in the Schedule of Forms to the Land Registration Rules 2012, (S.I. No.483 of 2012) as amended by the Land Registration Rules 2013 (S.I. No. 389 of 2013) or Form 16 set out in the Schedule to the Registration of Deeds (No.2) Rules 2009 (S.I. No.457 of 2009), used for the purposes of converting the judgment concerned into a judgment mortgage.

### **Satisfaction of a Charge**

A charge can be satisfied either fully or partially.

Details of the satisfaction of a charge should be completed on the following forms:

- Form C6 - Full Satisfaction
- Form C7 - Partial Satisfaction

Where the charge holder (chargee) / judgment creditor has signed the form, the satisfaction will be registered without notice being issued under Section 416(1) of the Companies Act 2014.

If the C6/C7 is completed by the company only, then the CRO notifies the person(s) entitled to the charge that a memorandum of satisfaction has been received for registration. The person(s) entitled to the charge has (have) 21 days to lodge an objection to the registration of the memorandum of satisfaction. It is essential that letters objecting to the registration of satisfaction of a charge are addressed to Mortgages Section. If no objection is received the satisfaction is registered.

## Change of Lender

The CRO register of charges records “the persons entitled to the charge” as one of the mandatory items specified in section 414(1)(f) Companies Act 2014.

In the event that there is a change in the identity or the name and/or address of the lender under a registered charge during the lifetime of that charge, it is possible to have the details of the person entitled to the charge amended on the CRO register by submitting Form C17, CRO will then be in a position to amend the “Person Entitled” details on the register in respect of the charge concerned.

The form C17 can only be used in the instance set out above.

### 3.6.4 Classes of records held

The following series are held:

Precedents  
Judgement Mortgages  
Slavenburg File (Discontinued)  
Satisfactions  
Court Orders  
Correspondence

### 3.6.5 Contact points

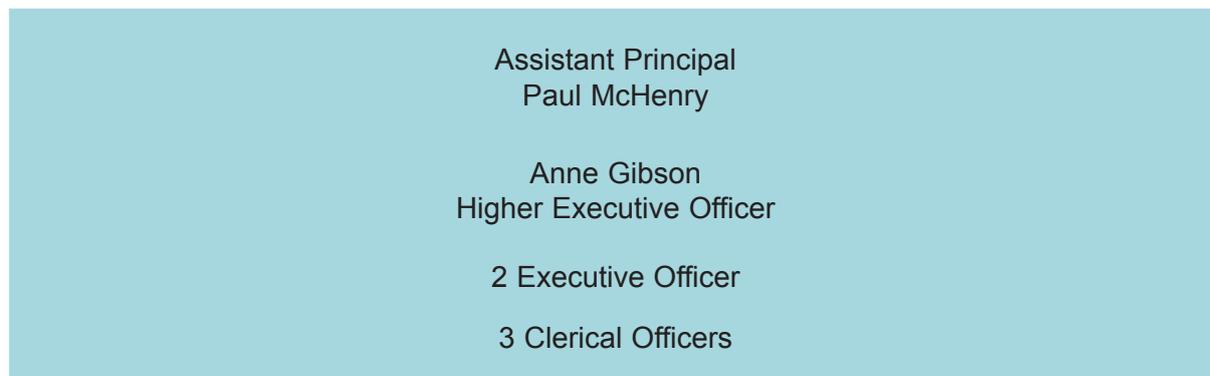
Name	Area of responsibility	Telephone	E-mail
Aoife King	Section manager	01 804 5216	Aoife.king@dbei.gov.ie

## 3.7 SOLVENCY

### 3.7.1 Structure and organisation

The functions of Solvency Section are the registration of all documents filed relating to liquidations, receiverships and examinerships; the maintenance of a register of restricted persons; the maintenance of a register of disqualified persons.

The structure of the section is:



### 3.7.2 Delivery of service

The section is responsible for checking, registering and scanning documents for public availability and in doing so providing an effective, efficient and accessible source of company information to customers.

### 3.7.3 Rules and practices

#### Checking documents

Registering documents involves checking the details and entering new data on the register of companies. Where errors are identified, the documents are returned to the presenter for correction. Under section 898 Companies Act 2014, CRO may reject a document by serving a notice on the presenter detailing the reason for rejection. Unless the presenter delivers to CRO, within 14 days, a replacement document that complies with the notice, the original document is deemed to not have been delivered to the CRO.

#### Qualification

Under sections 633 and 634 of the Companies Act 2014, certain qualifications are set out for the appointment as liquidator.

The requirement for such qualification is overseen by the Irish Auditing and Accountancy Standards Authority. The CRO cannot answer any questions regarding the qualifications. Please contact IAASA regarding this process.

There are five general categories for appointment.

1. Member of prescribed accountancy body
2. Practising solicitor
3. Member of other professional body recognised by IAASA
4. Person qualified under the laws of another EEA State
5. Persons with practical experience of windings up and knowledge of relevant law.

Please see Information Leaflet No.38 regarding qualifications and disqualifications and also Part 11 Companies Act 2014.

The Supervisory Authority details are as follows:

Supervisory Authority:

The Irish Auditing and Accounting Supervisory Authority

Address: Willow House, Millennium Park, Naas, County Kildare

Phone: 045 983600

Fax: 045 983 601

Email: [info@iaasa.ie](mailto:info@iaasa.ie)

Website: [www.iaasa.ie](http://www.iaasa.ie)

### **Disqualification**

Section 838 Companies Act 2014 states that the court may order that a person disqualified by the High Court may not act as a liquidator.

Under section 635 certain persons are disqualified from acting as a liquidator.

(1) None of the following persons shall be qualified to be appointed or act as liquidator of a company—

- (a) a person who is, or who within the period of 24 months before the date of the commencement of the winding up has been, an officer or employee of the company;
- (b) except with the leave of the court, a parent, spouse, civil partner, brother, sister or child of an officer of the company;
- (c) a person who is a partner or in the employment of an officer or employee of the company;
- (d) a person who is an undischarged bankrupt;
- (e) a person who is not qualified by virtue of a preceding provision of this subsection for appointment as liquidator of any other body corporate which is that company's subsidiary or holding company or a subsidiary of that company's holding company, or would be so disqualified if the body corporate were a company.

(2) References in subsection (1) to—

- (a) a child of an officer shall be deemed to include a child of the officer's civil partner who is ordinarily resident with the officer and the civil partner;
- (b) an officer or employee of the company include a statutory auditor of the company.

### **Annuling the Winding Up**

The resolution to wind up the company once passed can be annulled only by the High Court. In order for the company to return to a Normal status and recommence trading, a copy of the court order must be submitted. A court order has a filing fee of €15.

In a court winding up, the order may be granted under section 669 Companies Act 2014. Form E669 should be submitted forthwith and the order should be submitted when available.

## **REMOVAL AND RESIGNATION OF A LIQUIDATOR**

### **Removal**

#### **Members' voluntary winding up**

Subsequent to the appointment of a liquidator of a company under section 583 in a members' voluntary winding up, the company, in general meeting, may, at a meeting convened for that purpose

- remove the liquidator;
- appoint a liquidator to replace or act with the existing liquidator; or
- appoint a liquidator to fill a vacancy in the office of liquidator.

A general meeting of the company for the purpose of removing or appointing to replace or act with the existing liquidator, may be convened, on 10 days' notice to the members of it, by

- any member of it with the written authority of not less than one tenth in number of the members; or
- an existing liquidator;
- or for the purpose of appointing a liquidator to fill a vacancy in the office, may be convened, on 10 days' notice to the members of it, by –
  - (i) any member of it with the foregoing written authority;
  - (ii) an existing liquidator; or
  - (iii) any contributory.

The powers conferred on the company shall be subject to any order the court may make with regard to the matter on application to it by any contributory or an existing liquidator.

A liquidator can resign from the company and file Form E2a with the CRO. Form E2b should be filed for the removal of a liquidator and Form E2c completed for the appointment of the replacement liquidator.

#### **Creditors' voluntary winding up.**

This section applies at any time subsequent to the appointment of a liquidator of a company under section 588 in a creditors' voluntary winding up. Where this section applies, the creditors may, at a meeting convened for that purpose, by resolution of a majority, in value only, of the creditors present personally or by proxy and voting on the resolution, exercise the following powers.

Those powers of the creditors are to –

- remove the liquidator;
- appoint a liquidator to replace or act with the existing liquidator;
- appoint a liquidator to fill a vacancy in the office of liquidator.

A meeting of the creditors of the company may be convened, on 10 days' notice to the creditors, by any creditor of it with the written authority of not less than one tenth in value of the creditors or an existing liquidator. The powers conferred on the creditors shall be subject to any order the court may make with regard to the matter on application to it by any creditor or an existing liquidator. A liquidator can resign from the company and file Form E2a with the CRO. Form E2b should be filed for the removal of a liquidator and Form E2c completed for the appointment of the replacement liquidator.

#### **Court Wind Up**

In any winding up, the court may, on the application by a member, creditor, liquidator or the Director of Corporate Enforcement or on its own motion –

- appoint a liquidator if from any cause whatever there is no liquidator acting;
- on cause shown, remove a liquidator and appoint another liquidator. Where the court makes an order, it may give such consequential directions, including directions as to the delivery and transfer of the seal, books, records and any property of the company, as it thinks fit.

## **Resignation of liquidator**

In any winding up, a liquidator may resign from office. Where a liquidator resigns, he or she shall give notice in writing of that fact, within 2 days after the date of resigning, to the Registrar (Form E2a) and the ODCE and, within 14 days after the date of resigning

- (a) in the case of a winding up by the court, to the court and –
  - (i) if a committee of inspection has been appointed – to the members of that committee; or
  - (ii) if no committee of inspection has been appointed – to the creditors of the company;
- (b) in the case of a creditors' voluntary winding up –
  - (i) if a committee of inspection has been appointed – to the members of that committee; or
  - (ii) if no committee of inspection has been appointed – to the creditors of the company; or
- (c) in the case of a members' voluntary winding up – to the members of the company.

### **Form E2A - Notice of Resignation as liquidator**

If the liquidator has resigned under section 635(5) (Form E2a), notice may also be required to be sent to the IAASA. Section 635 relates to specific disqualification from acting as liquidator. The notice is necessary if the person had been authorised pursuant to paragraph 5 of the Table to section 633 to be appointed as a liquidator.

## **Notifications and filings of appointments and removals.**

The chairperson of any meeting at which a liquidator is appointed or removed shall, following the meeting, forthwith deliver to the liquidator notice in writing of the liquidator's appointment or removal, unless the liquidator or his or her duly authorised representative is present at the meeting where the resolution concerned was passed. In default of election of a chairperson by the meeting, the person who shall be chairperson of that meeting shall be the person who was the signatory or the first signatory, as the case may be, on the notice by which the meeting was called.

The chairperson of a meeting at which a liquidator is removed shall, following the meeting, forthwith deliver to the Registrar Form E2b for the removal of a liquidator and Form E2c completed for the appointment of a second liquidator.

## **Form E2 (Notice of Appointment - Members or Creditors Liquidation)**

The liquidator, following receipt of notice of his or her appointment (in a members or creditors voluntary winding up), shall forthwith deliver to the Registrar notice of his or her appointment in the form E2. This form should be submitted within 14 days of the appointment. In a court liquidation, there is no need to submit a form E2. Instead, a copy of the court order is submitted.

## **Court Order (Notice of Appointment - Court liquidation)**

Where an order is made appointing or removing a liquidator -

- the applicant for the order; or
- in a case where the order is made by the court of its own motion, such officer of the court as may be prescribed, shall, following the making of the order, forthwith deliver or cause to be delivered to the liquidator notice in writing of

the liquidator's appointment or removal, unless the liquidator or his or her duly authorised representative is present in court when the order is made.

Where an order is made appointing or removing a liquidator, such officer of the court as may be prescribed shall, following the making of the order, forthwith cause the Registrar to be furnished with such particulars of the order as may be prescribed.

### **WINDING UP**

A company can be wound up by:

- resolution of the Members following the making of a declaration of solvency;
- A resolution of the members ratified by the Creditors;
- An order of the Court.

In the majority of cases, a liquidator is appointed and is obliged to file accounts under the provisions of the Companies Act. The company is dissolved with an effective date three months from the date of registration of the final documents, or when the court orders its dissolution after winding up by an official liquidator.

### **Declaration of Solvency - Members Liquidation**

In a members voluntary winding up of a company, a declaration of solvency (Form E1-SAP/E1-41) must be delivered to the CRO pursuant to section 207/579 Companies Act 2014 or section 580 Companies Act 2014. The declaration of solvency is ineffective unless it is made within 28 days immediately preceding the date of passing of the resolution for winding up the company.

- Under section 207, the declaration must be submitted not less than 21 days after the passing of the resolution.
- Under section 580, the declaration must be submitted not less than 14 days after the passing of the resolution.

Precheck the form

The Form (E1-SAP/E1-41) has a checklist on the front which should be completed by the individual presenting the form to the CRO. The form can also be prechecked in the Public Office of the CRO between 10am and 12.30pm and between 2.30pm and 4.30pm. The form can alternatively be posted to the Carlow address. It is important to complete the form correctly as an ineffective form will result in the company having to apply to the High Court for directions if incorrect.

### **Members Voluntary Winding Up**

For members to voluntarily wind up their company as a Members Voluntary Winding Up, a declaration of solvency and special resolution must be submitted. Please also see Information Leaflet No. 38 – regarding Liquidations.

A majority of the directors must make a declaration that, having made a full enquiry into the affairs of the company, they are of the opinion that the company will be able to pay its debts in full within a period not exceeding 12 months from the commencement of the winding up. Within 30 days of the making of the declaration of solvency, the members must pass a special resolution to wind up and appoint a liquidator. The resolution to wind up must be advertised in Iris Oifigiúil within 14 days after the passing of the resolution.

There are two methods for drafting a Declaration of Solvency, one under the

Summary Approval Procedure (s.207/579) and the other where the constitution of the company allows for it (s.580).

### **Statutory requirements - Forms to be submitted**

Following the Summary Approval Procedure, the Declaration of Solvency (Form E1-SAP) must be submitted, a special resolution to wind up and appoint a liquidator (Form G1), and a Notice of appointment of liquidator (Form E2), must also be filed with the CRO. Forms E1-SAP, E2 and G1 have filing fees of €15 each. The declaration of solvency must be received within 21 days of the resolution being passed.

It is very important to complete the Form E1\_SAP correctly as the company will have to go to the High Court for direction if the declaration is ineffective.

Following the section 580 Procedure, the Declaration of Solvency (Form E1-41) must be submitted, an ordinary resolution to wind up and appoint a liquidator (Form G2), and a Notice of appointment of liquidator (Form E2), must also be filed with the CRO. Forms E1-41, E2 and G2 have filing fees of €15 each. The declaration of solvency must be received within 14 days of the resolution being passed.

Form E3, liquidator's account of his/her dealings, is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for a longer period, a Form E3 must be filed for the first 12 months, and for every period, of exactly 12 months during the winding up. Any lesser period covering up to the date of the final meeting doesn't require the submission of an additional Form E3. Form E3 has a filing fee of €15.

Form E4, liquidator's statement of account under section 681, is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for longer, Form E4 must be filed for the initial period of 12 months, and each subsequent six-month period, and any lesser period, up to the date of the close of winding up (date of final meeting on Form E6). Form E4 has a filing fee of €15.

Form E6, Return of the final winding up meeting must be accompanied by a full statement of account spanning the duration of the liquidation - Form E5. Forms E6 and E5 have filing fees of €15 each.

### **Dissolution**

3 Months after the date of registration of the final documents - Forms E5 and E6, the company is deemed to be dissolved. The dissolution can be voided within 2 years under section 708 of the Companies Act 2014. A copy of the court order must be sent to the CRO (with the filing fee €15) and the status of the company is then returned to Liquidation.

### **Creditors Voluntary Winding Up**

In a creditors' winding up the company is obliged to summon a meeting of the creditors. The creditors must receive at least ten days notice and their meeting must be held on the same day or the day after the meeting of the members at which the resolution for voluntary winding up is to be proposed.

## **Statutory requirements**

Notice of the meeting must be advertised at least ten days before the date of the meeting, in two daily newspapers circulating in the district of the registered office of the company. The creditors have the right to supervise the conduct of the liquidation. A committee of inspection may be appointed by the creditors at their meeting for this purpose. The members and the creditors must be summoned to all meetings called by the liquidator. The resolution to wind up, passed by the company, must be advertised in *Iris Oifigiúil* within 14 days after the passing of the resolution.

## **Forms to be filed with the CRO.**

In a creditors' winding up, an ordinary resolution of the company to wind up and appoint a liquidator (Form G2), a notice of appointment of liquidator (Form E2) and a creditors resolution, or a notice that no resolution was passed at the creditors' meeting, must be filed with the CRO.

The liquidator must summon meetings of the members and creditors at the end of each year, to give an account of his/her acts and dealings and the conduct of the winding up. Details of the meeting must be delivered to the CRO on Form E3.

Form E3, Liquidator's account of his/her acts and dealings - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for a longer period, a Form E3 must be filed for the first 12 months, and for every period of exactly 12 months thereafter. Any lesser period to the date of the final meeting need not be covered by a Form E3.

Form E4, liquidator's statement of account under section 681 - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for longer, Form E4 must be filed for the initial period of 12 months, and each subsequent six-month period, and any lesser period, up to the date of the close of winding up (date of final meeting on Form E7). Form E4 has a filing fee of €15.

Form E7, Return of the final members and creditors meetings is submitted at the completion of the liquidation and is accompanied by a full statement of account spanning the duration of the liquidation (Form E5).

Forms E2, E3, E4, G2, E7 and E5 have filing fees of €15 each.

## **Dissolution**

Three months after registration of the final documents - Form E7 and Form E5, the company is deemed to be dissolved. The dissolution can be voided within 2 years under section 708 of the Companies Act 2014. A copy of the court order must be sent to the CRO (with the filing fee €15) and the status of the company is then returned to Liquidation status.

## **Court Winding Up**

A company can be wound up by the High Court at the instigation principally of any member or creditor of the company. The Court appoints the liquidator and he/she becomes an officer of the Court and works under its supervision. Under the Companies Act 2014, the Registrar of the Court supplies the copy of the court order to wind up the company to the Registrar.

## Statutory requirements

A petition must be presented to the Court and when a winding up order is made a copy will be submitted to the Registrar by an officer of the Court. The circumstances in which a company may be wound up are stated in section 569 of the Companies Act 2014.

A company may be deemed unable to pay its debts, under section 570 Companies Act 2014, if a creditor is owed a sum greater than €10,000 and a demand served on the company at its registered office has not been met within 21 days to the reasonable satisfaction of the creditor.

The court on winding up the company may direct that the liquidator follow the Creditors Voluntary Winding Up procedure. The liquidator, when appointed, must publish a notice of his/her appointment in Iris Oifigiúil. A copy of any other subsequent order annulling or staying the winding up or dissolving the company must also be delivered for registration.

If Following Creditors Winding Up Procedure, Court liquidator would file:  
Form E3, Liquidator's account of his/her acts and dealings - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for a longer period, a Form E3 must be filed for the first 12 months, and for every period of exactly 12 months thereafter. Any lesser period to the date of the final meeting need not be covered by a form E3.

Form E4, liquidator's statement of account under section 681 - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for longer, Form E4 must be filed for the initial period of 12 months, and each subsequent six-month period, and any lesser period, up to the date of the close of winding up (date of final meeting on Form E7). Form E4 has a filing fee of €15.

Form E7, Return of the final members and creditors meetings is submitted at the completion of the liquidation and is accompanied by a full statement of account spanning the duration of the liquidation (Form E5).

Forms E2, E3, E4, G2, E7 and E5 have filing fees of €15 each.

If Following Court Procedure, Court liquidator would file:  
Form E3, Liquidator's account of his/her acts and dealings - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for a longer period, a Form E3 must be filed for the first 12 months, and for every period of exactly 12 months thereafter. Any lesser period to the date of the final meeting need not be covered by a Form E3.

Form E4, liquidator's statement of account under section 681 - is not required if the winding up continues for a period of less than 12 months. However, if the winding up continues for longer, Form E4 must be filed for the initial period of 12 months, and each subsequent six-month period, and any lesser period, up to the date of the close of winding up (date of final court order). Form E4 has a filing fee of €15. The final court order must be submitted and a court order has a filing fee of €15.

## **Dissolution**

If following Creditors Procedure:

Three months after registration of the final documents - Form E7 and Form E5, the company is deemed to be dissolved. The dissolution can be voided within 2 years under section 708 of the Companies Act 2014. A copy of the court order must be sent to the CRO (with the filing fee €15) and the status of the company is then returned to Liquidation.

If following Court Procedure:

The winding up will conclude once the court order dissolving the company and the final Form E4 have been lodged with the CRO. When the Court makes an order for the dissolution of a company, it may order that the company be dissolved from the date of presentation of the order to the CRO.

The dissolution can be voided within 2 years under section 708 of the Companies Act 2014. A copy of the court order must be sent to the CRO (with the filing fee €15) and the status of the company is then returned to Liquidation.

## **RECEIVERSHIP**

A receiver is a person appointed who is realising and receiving an asset or assets and/or even managing the affairs of the company in the hope that debts outstanding to the debenture holder which appointed him/her can be met.

A receiver may be any person who is neither a body corporate nor an undischarged bankrupt. He/she may be appointed by the Court or out of Court to act as receiver of the property of a company. He/she will apply its benefits, rights, interests, as directed and will account for his/her receipts and payments during the period of her/his appointment. The duties of a receiver are normally set out in the instrument under the terms of which he/she is appointed.

### ***Statutory requirements***

A notice of appointment of receiver (Form E8) must be filed with the CRO within seven days of appointment and must also be published in Iris Oifigiúil.

Once a receiver is appointed all invoices, orders for goods and business letters issued by or on behalf of the company must contain a notice to that effect.

Where a receiver is appointed on behalf of debenture holders, who are secured by a floating charge, a statement of the company's affairs (Form E10) must be submitted to the receiver who must file a copy of same with the CRO.

The receiver must file abstracts of her/his receipts and payments on Form E9, for each six-month period from the date of her/his appointment, and any lesser final period up to the date he/she ceases to act. A notice of ceasing to act must then be filed on Form E11.

All receivership documents have filing fees of €15. Upon cessation, unless the company is already in liquidation, a statement by the receiver, is required under Section 430 of the Companies Act 2014, to assert whether, at the date of cessation, the company was solvent. This statement is filed with the final receivers abstract. This statement is forwarded by the CRO to the ODCE.

The listing of a company as being Normal but with a receiver appointed means that a Form E8 (Notice of appointment of Receiver) per section 436 Companies Act 2014, has been filed with the CRO in respect of part or all of the property of the company, which property may or may not be beneficially owned by the company. Please refer to the relevant E8 form(s) filed with the CRO for further information.

### **Receivers and form B2**

A receiver is not an officer of a company but instead is appointed over the relevant property of the company and accordingly has no authority to sign statutory filings with CRO on behalf of a company - for instance a B2 to change the registered office.

Statutory filings on behalf of companies are required to be signed by a director or secretary of the company or where the company is in liquidation, by the liquidator of the company. The only exception to this is NAMA-appointed receivers ('statutory receivers') - under the NAMA legislation, statutory receivers are given power to notify CRO of a change in the registered office of any company over whose property he/she has been appointed as statutory receiver.

A Form B2 signed by a statutory receiver notifying a change in the registered office of the company over whose property he/she has been appointed receiver is registrable by CRO on that basis.

### **EXAMINERSHIP**

A company which is in examinership is under scrutiny by an examiner so that he/she can report back to the High Court with proposals for the company's survival.

Examinership is a mechanism provided for the rescue and return to health of ailing, but potentially viable companies. The company has to have a reasonable prospect of survival. When considering whether to grant an application to place a company in examinership, the court will have more information available to it, in the form of an independent accountant's report. Creditors also have the right to be heard during the court hearing when the appointment of an examiner is being considered. However, a winding up of the company may not be in progress, voluntary or compulsory.

The court makes an order for the appointment of an examiner for the purpose of examining the state of the company's affairs and performing such duties in relation to the company as may be imposed by the Act. A petition to the Court for the appointment of an examiner may be presented by the company or its directors, a creditor or contingent or prospective creditor (including an employee) of the company, or by the members holding not less than one tenth of the paid-up capital.

Where the Court appoints an examiner to a company, it may at the same time, or at any time thereafter, make an order appointing the examiner to a related company. The duration of the protection of the Court is 70 days from the date of the presentation of the petition.

### ***Statutory requirements***

A Form E24 (notice of the petition to appoint an examiner) must be delivered to the CRO within three days after its presentation to the Court. The actual petition is not filed with the CRO. The examiner shall arrange for the particulars of his/her appointment including date of appointment to be published in *Iris Oifigiuil* and in at least two daily newspapers circulating in the district in which the registered office

of the company is situated. A copy of the order to appoint the examiner must be filed with the Registrar within three days. It is a duty of the examiner to conduct an examination of the affairs of the company and report to the Court.

A court order to cease the protection of the court, to place the company in liquidation or to confirm the proposals needs to be filed with the CRO. Otherwise the status of the company would remain at Examinership and the individual would still appear on a company printout.

### **Court Orders**

An office copy of orders made pursuant to sections 530, 531, 533, 542 and 553 must be delivered to the CRO. A court order has a filing fee of €15.

These orders are:

- (a) an order under s.530 of the Act, regarding the power to deal with charged property;
- (b) an order under s.531 of the Act, regarding the appointment as examiner;
- (c) an order under s.533 of the Act, following a hearing regarding irregularities in relation to the company's affairs - s.533(10) - The court may, if it considers it appropriate to do so, direct that a certified copy of an order under subsection (9) shall be delivered to the Registrar of companies by the examiner or such other person as it may specify;
- (d) an order under s.542 of the Act, re confirmation of proposals;
- (e) an order under s.553 of the Act, re revocation of order confirming proposals.

Section 555 of the Act provides that an examiner or such other person as the court may direct shall within 14 days after the delivery to the CRO of every order made under section 533, 542 or 553, cause to be published in Iris Oifigiúil notice of such delivery.

### **Qualification**

Examiners must meet qualification requirements in order to act as an examiner:

519. (1) A person shall not be qualified to be appointed or act as an examiner of a company unless he or she would be qualified to act as its liquidator (but disregarding for this purpose the requirements of section 634 concerning professional indemnity cover).

(2) A person who acts as examiner of a company when he or she is not qualified to do so under subsection (1) shall be guilty of a category 2 offence.

#### **3.7.4 Classes of records held**

The following are the series held:

Precedents, Strike off, Restricted/Disqualified Directors, Examinerships, Legislation Correspondence

#### **3.7.5 Contact points**

Name	Area of responsibility	Telephone	E-mail
Anne Gibson	Section manager	01 804 5363	Anne.gibson@dbei.gov.ie

## 3.8 POST INCORPORATION UNIT B

### 3.8.1 Structure and organisation

The unit is concerned with the processing of certain post incorporation documents including changes in memoranda and articles of association and increase/reduction in capital.

The structure of the unit is:

Assistant Principal Claire Crowley
Paddy Porter Higher Executive Officer
1 Executive Officer
1 Clerical Officer

### 3.8.2 Delivery of service

The unit is charged with checking, registering and scanning documents for public availability and in doing so provides an effective, efficient and accessible source of company information to customers.

### 3.8.3 Rules and practices

Registering documents involves checking the details and entering new data on the register of companies. Where errors are identified, the documents are returned to the presenter for correction. Under section 898 Companies Act 2014, CRO may reject a document by serving a notice on the presenter detailing the reason for rejection. Unless the presenter delivers to CRO, within 14 days, a replacement document that complies with the notice, the original document is deemed to not have been delivered to the CRO.

## RESOLUTIONS AND MEETINGS

Chapter 6, Part 4 of the Companies Act 2014 deals with General Meetings and Resolutions. A company is required to hold an Annual General Meeting (AGM) in each year under section 175, with no more than 15 months elapsing between AGMs. A company is still required to hold an AGM within 18 months of its incorporation.

### Meeting held outside the State

An AGM can be held outside the State where there is unanimous agreement, otherwise, there is a duty to make necessary arrangements to ensure that members can by technological means participate in such a meeting without leaving the State. The business that must be included at an AGM is set out in Section 186.

The business of the annual general meeting shall include:

- the consideration of the company's statutory financial statements and the report of the directors and, unless the company is entitled to and has availed itself of the audit exemption under section 360 or 365, the report of the statutory auditors on those statements and that report;

- the review by the members of the company's affairs;
- save where the company's constitution provides otherwise
  - the declaration of a dividend (if any) of an amount not exceeding the amount recommended by the directors; and
  - the authorisation of the directors to approve the remuneration of the statutory auditors (if any);
- where the company's constitution so provides, the election and re-election of directors;
- save where the company is entitled to and has availed itself of the audit exemption, the appointment or re-appointment of statutory auditors; and
- where the company's constitution so provides, the remuneration of the directors.

### **Extraordinary General Meeting (EGM)**

All general meetings, other than an AGM, are deemed to be EGMs. Notice must be given of each general meeting to every member, director and the secretary of the company as well as the personal representative of a deceased member. If an auditor is appointed they should receive notice too.

Each general meeting must have 7 days notice before being called. However an AGM or a meeting at which a special resolution is to be passed must have 21 days notice. Section 181(2) allows for short notice of meetings where all members entitled to attend and vote agree and where the auditors also agree (if appointed).

A quorum can consist of 2 people under section 182 unless its constitution states otherwise or where the company is a single member company. Section 183 of the Act deals with proxies and section 184 sets out the form of proxy.

### **Special and ordinary resolutions**

A special resolution requires a 75% majority of the votes cast by the members entitled to vote. Form G1 is used for the submission of a special resolution. An ordinary resolution is defined in this Act (section 191) and means a resolution passed by a simple majority of the votes cast by the members, entitled to vote, to be voted in person or by proxy at a general meeting of the company. Form G2 is used for the submission of an ordinary resolution.

### **Written resolutions**

A written resolution under the Companies Act 2014, can be either a special or an ordinary resolution (sections 193 and 194). A unanimous written resolution is one in writing, signed by all the members of a company that are for the time being entitled to attend and vote.

### **A majority written resolution**

- includes either an ordinary or a special resolution and the requirements vary according to the requisite majority.
- A majority written resolution takes effect later than a unanimously passed written resolution.
- A majority written ordinary resolution takes effect seven days after the last signature, a majority written special resolution takes effect 21 days after the final signature unless members waive that right under section 194(10) or resolution specifies certain date.
- A majority written resolution cannot be used by Public Limited Companies (PLC),

by Companies Limited by Guarantee (CLG) or by Unlimited Companies (ULC/PUC/PULC).

- A resolution to remove an auditor or director cannot be passed by unanimous/majority written resolution.
- In a majority written ordinary resolution, the requisite majority of members means a member or members who alone or together, at the time of the signing of the resolution concerned, represent more than 50 percent of the total voting rights of all the members who, at that time, would have the right to attend and vote at a general meeting of the company.
- In a majority written special resolution, the requisite majority of members means a member or members who alone or together, at the time of the signing of the resolution concerned, represent more than 75 percent of the total voting rights of all the members who, at that time, would have the right to attend and vote at a general meeting of the company.
- The resolution can consist of several documents in like form each signed by one or more members.

### **Single Member Companies**

A single member company is simply a company that has a sole member. All powers exercisable by a company in general meeting are exercisable by the sole member without the need to hold a general meeting. This does not apply however to the power to remove an auditor. The resolution would then be submitted to the CRO within 15 days.

Submission of resolutions - General: A copy of a special resolution is required under section 198 Companies Act 2014 to be submitted to the CRO within 15 days of the passing. Form G1 is used for this purpose.

Resolutions that need to be submitted include:

- Resolutions that are required by this Act or a company's constitution to be special resolutions;
- Resolution which would have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;
- Resolutions or agreements which have been agreed to by all members of some class of shareholder but which if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholder though not agreed to by all those members;
- resolutions increasing or decreasing the authorised share capital (if any) of a company;
- resolutions conferring authority for the allotment of shares;
- resolutions that a company be voluntarily wound up;
- resolutions attaching rights or restrictions to any share;
- resolutions varying any such right or restriction to a share;
- resolutions classifying any unclassified share;
- resolutions converting shares of one class into shares of another class;
- resolutions converting share capital into stock and resolutions converting stock into share capital.

## **Retaining records**

Records must be maintained by the company. Sections 213 to 218 of the Companies Act 2014 deal with the form of the registers and the need to maintain them. Notice is required to be sent to the CRO where a company does not maintain registers at its registered office and where it changes the place where the registers are kept. Form B3 is used for this purpose.

## **SHARE CAPITAL CHANGE**

Each company with a share capital has an authorised share capital amount which is stated in the memorandum and articles of the company with one exception.

A Private limited by shares company incorporated under Part 2 of the Companies Act 2014 (LTD company) can, if it chooses, not have an authorised share capital figure. Such a company has a single document constitution.

Any increase or reduction in the authorised share capital involves a change to the Constitution of the company which the members must resolve to do. A reduction of issued share capital generally requires a High Court Order under section 84 of the Companies Act 2014 or can be effected using the Summary Approval Procedure.

## **Share/Stock Transfer Form**

With regards to a share/stock form, this form is not a CRO form but should be filed with the Revenue Commissioners. The form can be purchased from a law/legal stationers. Share transfers will be noted on a company's annual return form.

## **Increase in issued capital of a limited company**

Every allotment of shares by a company limited by shares, or by a company limited by guarantee and having a share capital must be notified to the CRO on Form B5 within one month of the date of allotment.

Since the abolition of companies capital duty with effect from 7 December 2005, Form B5 with an effective date on or after that date should be filed directly with the CRO (fee €15). Only a Form B5 that has an effective date prior to 7 December 2005 should now be filed with the Revenue Commissioners, Companies Capital Duty Section, Dublin Region, Stamping District, Stamping Building, Dublin Castle Dublin 2 together with the registration fee (€15 plus appropriate capital duty). Capital duty is a matter for Revenue.

## **Rectification of the Register**

Rectification of the Register can be effected under section 174 Companies Act 2014 by submitting Form B42a.

## **Increase in nominal share capital**

The following documents must be filed within 15 days after the passing of the resolution increasing the share capital:

- A signed copy of the resolution passed in favour of the increase.
- Form B4
- An up-to-date text of the company's constitution.

Unlimited companies are not required to file the amended constitution.

### **Alterations in share capital**

A company having a share capital, is required to notify the CRO when it consolidates shares, divides shares, converts shares into stock or reconverts stock into shares, subdivides, redeems or cancels shares otherwise than in connection with a reduction in share capital under section 83 Companies Act 2014. This notice must be filed on Form B7 within one month of this happening.

### **Disclosure order**

Disclosure order means an order of the Court to any person to give information on share ownership. Anyone who has a financial interest in a company may apply to the Court for a disclosure order. The applicant shall cause notice on Form H2 together with a copy of the order to be sent by registered post within seven days of the making of the order to the CRO, to the company, etc. (plcs, industrial and provident societies, building societies and charities are excluded from these provisions).

### **Return by a company purchasing its own shares and/or shares in a holding company**

Every company which has purchased its own shares (Chapter 6 Part 3 Companies Act 2014) shall deliver to the CRO for registration Form H5 within 30 days after delivery to the company of the shares. The form must be accompanied by the company's resolution approving the purchase contract. A company may not purchase any of its shares under this section if as a result of such purchase the nominal value of the issued share capital which is not redeemable would be less than one tenth of the nominal value of the total issued share capital of the company.

### **TRANSFER OF SHARES**

A company is not required to notify the CRO of share transfers at the time of the transfer. The transfer will be reflected in the next annual return filed by the company. However, the Revenue Commissioners must be notified on a Stock Transfer Form which can be purchased from a law/legal stationers.

The Stock Transfer Form is not a CRO form and should not be filed with the CRO. It should be filed with the Revenue Commissioners only.

### **SUMMARY APPROVAL PROCEDURE**

The Summary Approval Procedure (SAP) is covered in Chapter 7 of Part 4 of the Companies Act 2014. The SAP covers several different areas of the Act and permits certain restricted activities that would otherwise be prohibited. It is a means by which companies can engage in restricted activities by ensuring that the persons those restrictions are designed to protect, consent to the action.

The restricted activities are:

- the financial assistance for the acquisition of shares (section 82),
- reduction in company capital (section 84),
- variation of company capital on re-organisations (section 91),
- prohibition on pre-acquisition profits or losses being treated in holding company's financial statements as profits available for distribution (section 118),
- prohibition of loans to directors and connected persons (section 239),
- domestic merger (section 464),
- members voluntary winding up (section 579).

The SAP refers to a procedure where a resolution (special) is passed conferring authority, passed not more than 12 months prior to the commencement of the activity and the company delivers to the Registrar a copy of the declaration as required under section 202. The company must deliver the declaration not later than 21 days after the date on which the activity is commenced. Certain of the restricted activities have extra requirements and the nature of the declaration differs according to the restricted activity being dealt with.

Civil sanction is available to a liquidator, creditor or member of a company or to the ODCE where a declaration was made without reasonable grounds for doing so under section 210 of the Companies Act 2014 and a director, who has signed the declaration may be held personally responsible without limited liability for all and any of the debts and liabilities of the company.

Not all company types may use the SAP - there are restrictions on the use of procedures by Public Limited Companies. Certain Company types must pass special resolutions rather than ordinary resolutions to effect certain procedures.

### **Financial assistance for the acquisition of Shares**

Section 82 of the Companies Act 2014. It is not lawful for a company to give any financial assistance for the purchase of shares in the company or in the company's holding company (if applicable). The prohibition applies whether the assistance is given directly or indirectly or is by means of a loan or guarantee, the provision of security or otherwise.

There are exceptions and section 82(5) allows the financial assistance where the company's principal purpose in giving the assistance is not for the purpose of the acquisition or where it is incidental in relation to some larger purpose and the assistance is given in good faith. Section 82(6) lists the exceptions to the prohibition which include:

- the giving of financial assistance in accordance with the Summary Approval Procedure (SAP)
- for dividends or distribution out of profits
- for discharge of lawfully incurred liabilities
- lending money as part of ordinary business
- employee share schemes
- refinancing
- representations, warranties and indemnities
- fees, commissions and expenses.

Contravention of section 82 is a category 2 offence.

The SAP is set out in section 202 and 203 of the Companies Act 2014.

A copy of the declaration must be attached to the notice of the meeting not earlier than 30 days before the date of the meeting to pass the special resolution or if the resolution is being passed in writing not earlier than 30 days before the signature of the last person to sign. The declaration is completed by the directors or a majority of the directors, in relation to a transaction under section 82 or 239 (prohibition of loans to directors, connected persons) and the declaration must state

- the circumstances in which the transaction or arrangement is to be entered into;
- the nature of the transaction or arrangement;
- the person or persons to or for whom the transaction or arrangement is to be made;
- the purpose for which the company is entering into the arrangement or transaction;
- the nature of the benefit which will accrue to the company directly or indirectly from entering into the transaction or arrangement; and
- the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that the company, having entered into the transaction or arrangement, will be able to pay or discharge its debts and other liabilities in full as they fall due within a 12 month period from the date of entering into the transaction or arrangement.

The declaration must be submitted to the Registrar of Companies within 21 days after the date on which the carrying on the restricted activity concerned is commenced.

If the declaration is not submitted within the time limit, the failure to do so invalidates the carrying on of the activity. Under section 203(4) Companies Act 2014, the High Court has the power to validate the SAP which was done incorrectly.

### **Reduction in Company Capital or variation of Company Capital on Re-organisation**

Section 84 of the Companies Act 2014 allows a company to reduce its capital without the need for court intervention as it provides a secondary method to be used under the SAP.

Section 84 of the Companies Act 2014 allows for a company, unless a company's constitution prohibits, to reduce its capital in any way and therefore:

- it may extinguish or reduce the liability on any of its shares in respect of share capital not paid up;
- it may either with or without extinguishing or reducing liability on any of its shares, cancel any paid up company capital which is lost or unrepresented by available assets; or
- it may either with or without extinguishing or reducing liability on any of its shares, pay off any paid up company capital which is in excess of the wants of the company.

Company capital, under section 64 of the Companies Act 2014, refers to the aggregate value, expressed as a currency amount, of the consideration received by the company in respect of the allotment of shares of the company and that part of the company's undenominated capital constituted by the transfer of sums referred to in sections 106(4) and 108(3).

Section 91(1) is a provision which enables a company to vary its capital on re-organisation. A company can enter into a transaction to dispose of assets, undertakings or liabilities or a combination to another body corporate in return for shares or securities being allotted to the members of the company as consideration (or to its holding company).

The SAP is set out in sections 202 and 204 of the Companies Act 2014.

A copy of the declaration must be attached to the notice of the meeting not earlier than 30 days before the date of the meeting to pass the special resolution or if the resolution is being passed in writing not earlier than 30 days before the signature of the last person to sign. The declaration is completed by the directors or a majority of the directors, in relation to a transaction under section 84 or 91. The declaration must state:

- the circumstances in which the transaction or arrangement is to be entered into;
- the nature of the transaction or arrangement;
- the person or persons to or for whom the transaction or arrangement is to be made;
- the total amount of the company's assets and liabilities as at the latest practicable date before the date of making of the declaration and in any event at a date not more than 3 months before the date of that making;
- the anticipated total amount of the company's assets and liabilities immediately after the restricted activity having taken place;
- that the declarants have made a full inquiry into the affairs of the company and that, having done so, they have formed the opinion that the company is able to pay or discharge its debts and other liabilities in full during the 12 month period following the restricted activity; (being the debts and liabilities identified for the purposes of the total amount of the company's assets and liabilities and so far as not already paid or discharged) and
- that the declarants do not have actual or constructive notice that the company will incur any material, extraordinary, future liability within the period of 12 months after the date of the making of the declaration.

The declaration must be submitted to the Registrar of Companies within 21 days after the date on which the carrying on the restricted activity concerned is commenced. The declaration has no effect unless accompanied by a report. The report forms part of the document and must include a statement by a person who is qualified to be appointed, or continue to be, the statutory auditor of the company.

The statement must be as to whether, in the opinion of that person, the declaration is not unreasonable.

If the declaration is not submitted within the time limit, the failure to do so invalidates the carrying on of the activity. Under section 204(2) Companies Act 2014, the High Court has the power to validate an SAP which was completed incorrectly.

### **Application to the Court**

The other method for the reduction of the share capital is by an application to the High Court for confirming order. The company must cause notice of the passing of the resolution to be advertised at least once in 2 daily newspapers circulating in the district where the registered office or principal place of business is situated and all creditors, resident outside the State, must be informed by ordinary post.

Creditors have the right to object where they can credibly demonstrate that the reduction would put the satisfaction of their debt at risk. The court order must be sent to the CRO for registration thereafter.

## **Unlimited Companies**

Private and Public Unlimited Companies may reduce their company capital using section 1252 Companies Act 2014. A special resolution must be passed.

### **Members Voluntary Winding Up**

The SAP will also be used in relation to the members liquidation of a company under section 207.

Form E1 will be used as the declaration of solvency. The other option for the drafting of the declaration is under section 580 of the Companies Act 2014 but this section only refers to companies which have a Fixed Duration set in its constitution for the company to exist. The vast majority of companies will complete the declaration under section 207 and the SAP. In either case, a statement by the independent person (person who is or is qualified to be the auditor of the company) that the declaration of solvency is not unreasonable is required.

### **Report of the Independent Person (SAP)**

The independent person is the auditor of the company or someone who is qualified to be the auditor of the company. A declaration pursuant to section 204/205/207 of the Act of 2014 shall have no effect for the purposes of the Act of 2014 unless it is:

(i) accompanied by a report that contains, at least, relevant information in accordance with the headings set out below, and

(ii) drawn up by a person who is qualified at the time of making the report to be appointed, or continue to be, the statutory auditor of the company.

The report shall be addressed to the declarant company and shall contain, at least, the following information:

- I. Introductory paragraph identifying the directors' declaration and accompanying documents to which the report relates;
- II. Statement on the responsibilities of directors;
- III. Statement on the responsibilities of statutory auditor;
- IV. Scope of work performed by statutory auditor;
- V. Other relevant facts (if any) that the statutory auditor has relied on in reaching his/her opinion that the declaration is not unreasonable;
- VI. The opinion of the statutory auditor that the declaration pursuant to section 204/205/207 is not unreasonable; and
- VII. Date and signature of statutory auditor, who having compiled the report, has formed the opinion that the declaration pursuant to section 204/205/207 is not unreasonable.

## **MERGERS AND DIVISIONS**

### **Mergers and Divisions involving private limited companies**

Under the Companies Act 2014, it is possible for a private limited company to be involved in a merger or division of companies. Under the previous Companies Acts, this was only available to public limited companies. PLC's still have the option to merge or divide under Part 17 of the Companies Act 2014.

## **Mergers**

None of the merging companies under Part 9 of the Companies Act 2014 can be a Public Limited Company and one of the companies must be an LTD company (private company limited by shares, registered under Part 2 of the Companies Act 2014) (See sections 2 and 462 Companies Act 2014 for definition).

There are several means of achieving a merger. It can be done by means of the Summary Approval Procedure set out in Part 4 of the Act or by the means of merger available under Part 9. Acquisition can be separately employed under Chapter 1 of Part 9 of the Act. Under the Part 9 merger procedure, Form DM1 is submitted together with the Common Draft Terms. Court permission is then required. Following the merger, the transferor companies are dissolved without entering liquidation.

Merger can be by acquisition, absorption or formation of a new company and can be made under Part 9 of the Act.

- Merger by Acquisition is where a company, without going into liquidation, is dissolved and its assets and liabilities are transferred to a company in exchange for shares in the acquiring company with/without any cash payment.
- Merger by Absorption is where a company, without going into liquidation, is dissolved and its assets and liabilities are transferred to a company that is the holder of all of the shares representing the capital of the dissolving company.
- Merger by formation of a new company – one or more companies, without going into liquidation, is/are dissolved and the assets/liabilities are transferred to a company in exchange for shares in the new company with or without any cash payment.

Procedure: Part 9 Merger

1. Common Draft Terms submitted to the CRO together with Form DM1
2. Form DM1 submitted for CRO Gazette notice
3. Advertisement placed in newspaper at least 30 days prior to meeting
4. Directors Report, Experts Report and Financial Statements supplied to members (except where merger by absorption or where 90% agreement)  
30 days later .....
5. Special resolution where required should be submitted.
6. Court order finalizing merger should be submitted.
7. Second CRO Gazette notice published by the Registrar on receipt of court order.

Publication requirements in the CRO Gazette are met by the submission of the form DM1 and the subsequent court order. Where the common draft terms are published on a website instead of being submitted to the CRO, Form DM1 is still submitted.

## **Divisions**

Companies can also be divided amongst two or more companies under Chapter 4 of Part 9. Again, none of the companies can be a Public Limited Company and one of the companies must be an LTD company (private company limited by shares, registered under Part 2 of the Companies Act 2014).

Division can be by means of acquisition or formation of new companies.

Division by Acquisition is where two or more companies acquire the assets and liabilities of a company that is being dissolved without entering liquidation in

exchange for issue of shares in one or more of the companies acquiring the assets/liabilities.

Division by Formation of new companies – is where two or more new companies are formed in order to acquire the assets and liabilities of a company that is being dissolved without entering liquidation, and that this is in exchange for issue of shares in the companies.

The Common Draft terms of division are submitted along with Form DV1. Court approval is required. Following division, the transferor company is dissolved without entering liquidation.

#### Part 9 Division

1. Common Draft Terms submitted
2. Form DV1 submitted for CRO Gazette notice
3. Advertisement placed in 1 newspaper at least 30 days prior to meeting
4. Directors Report, Experts Report and Financial Statements supplied to members (except where unanimously agreed)  
30 days later .....
5. Special resolution submitted where applicable.
6. Court order finalises division
7. Second CRO Gazette notice published by the Registrar on receipt of court order.

Publication requirements in the CRO Gazette are met by the submission of the form DV1 and the subsequent court order. Where the common draft terms are published on a website instead of being submitted to the CRO, Form DM1 is still submitted. Where publication is made on the website, the advertisement must be made in 2 newspapers.

### **Mergers and Divisions involving public limited companies**

Public Limited Companies can merge together or be divided under Part 17 of the Companies Act 2014. At least one of the companies participating in the Merger or Division under Part 17 must be a Public Limited Company.

Merger can be by acquisition, absorption or formation of a new company and can be made under Part 17 of the Act.

Merger by Acquisition is where a company, without going into liquidation, is dissolved and its assets and liabilities are transferred to a company in exchange for shares in the acquiring company with/without any cash payment.

Merger by Absorption is where a company, without going into liquidation, is dissolved and its assets and liabilities are transferred to a company that is the holder of all of the shares representing the capital of the dissolving company.

Merger by Formation of a new company – two or more companies, without going into liquidation, is/are dissolved and the assets/liabilities are transferred to a company in exchange for shares in the new company with or without any cash payment.

Where the merger is being effected under Part 17, notice to the CRO Gazette is by means of the submission of the Form DM2. Where the Division is being effected under Part 17, notice to the CRO Gazette is by means of the submission of Form DV2. Submission of the court order confirming the merger or division will suffice with regards to the CRO Gazette requirement.

Division can be by means of acquisition or formation of new companies.

- Division by Acquisition is where two or more companies acquire the assets and liabilities of a company that is being dissolved without entering liquidation in exchange for issue of shares in one or more of the companies acquiring the assets/liabilities.
- Division by Formation of new companies – is where two or more new companies are formed in order to acquire the assets and liabilities of a company that is being dissolved without entering liquidation, and that this is in exchange for issue of shares in the companies

If a company contravenes this section, the company and any officer of it who is in default shall be guilty of a category 3 offence

For further information please see Information Leaflet no. 37.

#### **3.8.4 Classes of records held**

The following series are held:

Correspondence  
Minutes of Meetings  
Statistics

#### **3.8.5 Contact points**

Name	Area of responsibility	Telephone	E-mail
Paddy Porter	Section manager	059 917 8861	paddy.porter@dbei.gov.ie

## 3.9 EXTERNAL COMPANIES

### 3.9.1 Structure and organisation

The function of the section is to check, register and make available to the public documents relating to external companies, limited partnerships, chartered companies, reductions in share capital and prospectuses.

The structure of the section is:



### 3.9.2 Delivery of service

The section is responsible for checking, registering and scanning documents for public availability and in doing so, provides an effective, efficient and accessible source of company information to customers.

### 3.9.3 Rules and practices

#### Processing documents

Registering documents involves checking the details and entering new data on the register of companies. Where errors are identified, the documents are returned to the presenter for correction. Under section 898 Companies Act 2014, CRO may reject a document by serving a notice on the presenter detailing the reason for rejection. Unless the presenter delivers to CRO, within 14 days, a replacement document that complies with the notice, the original document is deemed to not have been delivered to the CRO.

## EXTERNAL COMPANIES

### Registration Foreign Company Branch

Any company which is incorporated outside the State and establishes a Branch in the State must be registered with the CRO under the Companies Act 2014. The registration must take place within one month of the establishment of the branch in the State. See Information Leaflet no. 5

The disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State are set out in Part 21 of the Companies Act 2014. The Regulations apply to the equivalent of Irish limited liability companies, incorporated in another State, which establish a branch in this State. There are some differences between the requirements imposed on a company from a Member State of the European Economic Area and companies from other countries.

The European Economic Area (EEA) consists of the 28 member states of the EU, (Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta,

Poland, Slovakia, Slovenia and Romania), plus Iceland, Liechtenstein and Norway.

Companies from a Member State of the EEA file Form F12 to register.

Companies from a non-EEA member state file Form F13 to register.

If the company commences to trade under a name other than its corporate name, the business name must be registered under the Regulations of the Business Names Act 1963 on Form RBN1B (see 3.11 Business Names).

### **Accounting documents (Form F7) - Branch**

All companies, including private companies, operating a branch in the State are required to file accounting documents.

Accounting documents are:

- (a) the accounts of the company for the period including, if it has one or more subsidiaries, any consolidated accounts of the group;
- (b) any annual report of the directors for the period;
- (c) the report of the auditors on the company accounts;
- (d) any report of the auditors on the directors' report.

The accounting documents should be accompanied by Form F7.

### **13.9.4 Classes of records held**

The following series are held:

External Companies, Prospectus, Limited Partnerships, Correspondence

### **3.9.5 Contact points**

Name	Area of responsibility	Telephone	E-mail
Gary Ward	Section manager	01 804 5272	<a href="mailto:gary.ward@dbei.gov.ie">gary.ward@dbei.gov.ie</a>

## 3.10 ENFORCEMENT/RESTORATIONS

### 3.10.1 Structure and organisation

The function of Enforcement/Restorations Section is to:

- (a) enforce the obligations of companies and their directors to file annual returns under the Companies Act 2014.
- (b) to comply with Revenue legislation specifically Section 882 of the Taxes Consolidation Act 1997 and
- (c) to restore companies to the register.

The structure of the section is:

Paul McHenry Assistant Principal
Michael Neville Higher Executive Officer
3 Executive Officers
2 Clerical Officers

### 3.10.2 Delivery of service

The section enforces, in respect of companies and their directors, their obligations under the Companies Act, particularly with regard to the filing of annual returns and financial statements. The section, in liaison with Revenue, also facilitates enforcement with certain requirements of Revenue legislation. The section is also responsible for restoring companies to the register.

### 3.10.3 Rules and practices INVOLUNTARY STRIKE-OFF

#### Grounds for Strike-off

There are several grounds for the strike-off of a company from the register involuntarily. The grounds are:

- The company has failed to file an annual return with the CRO as required by section 343 of the Companies Act 2014;
- The Revenue Commissioners have given a notice under section 882(3) of the Taxes Consolidation Act 1997 to the Registrar of the company's failure to deliver the statement required under section 882 of that Act;
- The Registrar has reasonable cause to believe that section 137(1) is not being complied with in relation to the company - (the requirement to have an EEA resident director);
- The company is being wound up and the Registrar has reasonable cause to believe that no liquidator is acting;
- The company is being wound up and the Registrar has reasonable cause to believe that the affairs of the company are fully wound up and that the returns required to be made by the liquidator have not been made for a period of 6 consecutive months;
- There are no persons recorded in the office of the Registrar as being current

directors of the company. Companies should note that a company may be struck off the register if it has failed to file an annual return for one year.

### **Consequences of Involuntary Strike-off**

The consequences are very serious for a company that is still trading (section 734 2014 Act):

- The assets of the company become the property of the State on dissolution of the company;
- The company ceases to exist as a legal entity with effect from the date of strike-off and dissolution;
- The protection of limited liability is lost with effect from that date, and if the business formerly carried on through the company is continued, the owners are trading in their personal capacity;
- Banks are likely to be unwilling to lend money to an entity which has, effectively, ceased to exist;
- There can also be unpleasant consequences for directors of such companies in that a disqualification order may be made against them by the High Court on the application of the Director of Corporate Enforcement.
- The liability, if any, of a director, other officer or a member of a company that has been dissolved under section 733(4) shall continue and may be enforced as if the company had not been dissolved.

### **Procedure**

In accordance with section 728 of the Companies Act 2014, the Registrar may give notice of the Registrar's intention to strike a company off the register on one of the grounds set out above. It is the policy of the CRO to issue non-statutory reminder letters to non-compliant companies. These notices are issued by email where an address has been supplied or where the previous annual return was submitted electronically. The strike-off process commences with the issue of the statutory strike-off notice.

The Registrar will send the notice by registered post - to the company at its registered office or if an individual is recorded in the office of the Registrar as the liquidator of the company, to the liquidator. The Registrar will also send a copy of the foregoing notice by prepaid ordinary post to such persons, if any, as are recorded in the office of the Registrar as being current directors of the company but non-compliance with this subsection does not affect the validity of the process. The address to which a notice under this subsection is sent shall be the usual residential address, as recorded in the office of the Registrar, of the addressee concerned.

Where a company does not have a registered office notified to the CRO, instead of giving a notice under section 727(1), the Registrar will publish a notice in the CRO Gazette containing the information required by section 728 where -

- (a) the company has not, for 20 or more consecutive years, made an annual return as required by section 343; and
- (b) no notice of the situation of the registered office of the company has been given to the Registrar as required by section 50.

## **Remedial Steps that can be taken to remove a company from the strike-off process**

The remedial step to have a company removed from the strike-off process is whichever of the following applies:

- the delivery to the Registrar of all annual returns as required by section 343 that the company has failed to make;
- the delivery to the Revenue Commissioners of the statement that the company is required to deliver under section 882(3) of the Taxes Consolidation Act 1997;
- the provision to the Registrar of evidence that section 137(1) is being complied with in relation to the company;
- the provision to the Registrar of the details of the liquidator and of up to date periodic statements having been furnished under section 681;
- the notification to the Registrar under section 149(8) of the appointment of a director of the company.

If the Registrar does strike-off the company it will be dissolved under section 733(2) 2014 Act.

### **The CRO Gazette - Public notice of intention to strike company off register**

If the Registrar has given a notice and the remedial step has not been taken on or before the date specified in that notice, the Registrar may publish a notice in the CRO Gazette that gives public notice of the Registrar's intention to strike the company off the register. The CRO Gazette is published on the CRO website each week - [www.cro.ie](http://www.cro.ie). The date shall be a date falling not less than 28 days after the date of publication of the notice.

The company will be dissolved on the date of publication by the Registrar of the notice in the CRO Gazette (2nd Involuntary Strike-off Gazette) of its being struck off the register and that date is referred to subsequently as "date of dissolution".

### **VOLUNTARY STRIKE-OFF**

Strike-off is not always involuntary. A company that ceases to trade, or has never traded, has no assets in excess of €150 and which has no outstanding creditors can request that the Registrar strike-off the company. Under the Companies Act 2014, this procedure has been formalised (section 731-733).

### **Conditions for Voluntary Strike-off**

Section 731 of the Companies Act 2014 sets out the conditions for the voluntary strike-off application. A company may apply to the Registrar to be struck off the register if the following conditions are satisfied:

- 1(a) the circumstances relating to the company are such as to give the Registrar reasonable cause to believe that it has never carried on business or has ceased to carry on business;
- (b) the company has, within 3 months before the date of the application, by special resolution -
  - (i) resolved to apply to the Registrar to be struck off the register on the ground that it has never carried on business or has ceased to carry on business; and
  - (ii) resolved that pending the determination (or, should it sooner occur, the cancellation, at its request, of this process) of its application to be struck off, the company will not carry on any business or incur any liabilities;

A copy of the special resolution must be filed with the CRO. If it is not already submitted when applying for voluntary strike-off, it should be filed with the H15 on the G1-H15 form.

- (c) the company has delivered to the Registrar all annual returns required by section 343 that are outstanding in respect of the company as at the date of the application;
  - (d) the company has delivered to the Registrar a certificate in the Form H15 (filing fee €15) signed by each director certifying that as at the date of the application-
    - (i) the amount of any assets of the company does not exceed €150;
    - (ii) the amount of any liabilities of the company (including contingent and prospective liabilities) does not exceed €150; and
    - (iii) the company is not a party to ongoing or pending litigation;
  - (e) the Registrar has received from the Revenue Commissioners written confirmation dated not more than 3 months before the date on which the Registrar receives the application that the Revenue Commissioners do not object to the company being struck off the register; and
  - (f) the company has caused an advertisement, in the prescribed form (see 1.2.5), of its intention to apply to be struck off the register to be published within 30 days before the date of the application in at least 1 daily newspaper circulating in the State.
- (2) Where an application under this section by a company to be struck off the register is made within one year after the date on which the company has changed its name or its registered office (or both), then, as the case may be –
- (a) the former name of the company, as well as the existing name of the company; or
  - (b) the former address, as well as the current address, of the company's registered office; or
  - (c) both its former name and the former address of its registered office, as well as the existing name of the company and the current address of its registered office, shall be stated in the advertisement.

### **The CRO Gazette - Public notice in case of voluntary strike-off**

As soon as is practicable after the receipt of an application by a company to be struck off that satisfies the conditions, the Registrar shall, by publishing a notice in the CRO Gazette, (the first Voluntary strike-off Gazette), give public notice of the Registrar's intention to strike the company off the register. The CRO Gazette is published every week on the CRO's website - [www.cro.ie](http://www.cro.ie).

The company will be dissolved on publication in the second Voluntary strike-off Gazette (at least 90 days after the date of the first Gazette publication) unless objection is received. Objection to the strike-off must be submitted within 90 days of the date of publication of the notice of strike off.

Objection can be made using either Form H16 (member of public) or Form H17 (the company itself) can be used to cancel the process. Forms H16 and H17 must be received within the 90 day period after first publication in the CRO Gazette.

### **Objection to Voluntary Strike-off**

Any person may deliver to the Registrar an objection to the striking off of the company in the form H16. The objection must be confined to the ground that one or more of the conditions set out at 1(a) to (f) above have not been satisfied. The

objection must be submitted within 90 days of the date of the publication of the notice of the strike-off. The Registrar will strike-off the company if no valid objection is made and the company will be deemed dissolved.

### **Company requests that application be cancelled**

The company may request of the Registrar, by delivering to the Registrar a notice in that behalf in the prescribed form H17, the cancellation of the process of its being struck off the register. The request must be submitted within 90 days of the date of the publication of the notice of strike-off.

### **CRO Integrated Enforcement Environment (IEE)**

#### **Enforcement Measures for Overdue Returns**

Annual returns which are filed late with the CRO incur a late filing penalty of €100 with effect from the expiry of the company's filing deadline, with a daily penalty of €3 accruing thereafter, up to a maximum of €1,200 per return.

In addition to the late filing penalty, the Registrar of Companies is empowered under law to take a number of enforcement measures in respect of those companies that file late. However, a number of companies are repeatedly paying late filing penalties and therefore, the severity of the enforcement measures employed by the CRO in respect of a company relate directly to that company's annual return filing compliance history in respect of the two most recent years.

"Firm but fair" is the guiding force behind the IEE and the four underlying principles are:

**Proportionality:** CRO will meet non-compliance with an appropriate enforcement response, the severity of which is related to the compliance history of the company.

**Consistency:** The IEE will ensure that companies are not left out of an enforcement process in which they should be included. CRO will also take a similar approach in similar circumstances.

**Transparency:** CRO will ensure company directors understand what is expected of them. This will include making clear why we intend to, or have taken enforcement action.

**Targeting:** CRO will make sure that effort is directed primarily towards those companies that repeatedly breach their filing requirements.

The range of enforcement actions to which a company is exposing itself, in the event that it does not deliver this year's annual return on time (together with any other annual return that may be outstanding), is as follows:

#### **High Court Order**

Under section 797 of the Companies Act 2014, the Registrar is empowered, after the expiry of a period of 14 days or longer period as specified in the notice following the issue of a notice to a company and/or its directors, if the outstanding annual return(s) has/have not been filed at the end of that period, to apply to the High Court for:

- an order directing the company and any officer thereof to make good the default

within such period as the court may specify an order directing that the costs of and incidental to the application be borne by the Company or the officers of the company responsible for the default. Section 797(4) (8) 2014 Act.

Furthermore, this measure may be used by the Registrar to secure the filing of an outstanding return, notwithstanding the prior conviction of the company or its directors for non-filing of annual returns, in the event that any return remains outstanding post-conviction of the company or its directors.

### **On-the-Spot Fine**

Under section 874 (1) Companies Act 2014, a defaulting person or company must, within the period of 21 days following the issue of a notice of on-the-spot fine by the Registrar to that person or company:

- Remedy the default by filing the outstanding annual return(s), and
- Make to the Registrar a payment of the amount set out in the notice.

The defaulting person/company will be prosecuted if the terms of the on-the-spot fine notice are not complied with, within the 21-day period.

### **Prosecution of Companies and Directors**

Companies and directors of companies who fail to file an annual return with the CRO may be prosecuted under section 343 (11) Companies Act 2014. If a company fails to comply with the requirements of this section, the company and any officer of it who is in default shall be guilty of a category 3 offence.

Category 3 offence is a summary offence only, attracting a term of imprisonment of up to six months or a “Class A fine” (or both); (Section 871 of Companies Act 2014) A “Class A fine” is a fine within the meaning of the Fines Act 2010 (i.e. a fine not exceeding €5,000.

A director who has received three such convictions may be disqualified from acting as director, or having any involvement in the management, of any company. (Section 843 (1) 849 Companies Act 2014).

### **Involuntary Strike Off**

A company, which fails to file an annual return in respect of any one year, may be struck off the register and dissolved. In the event that a company has an annual return outstanding, one statutory warning only is required to be issued by the CRO to the registered office of the company. (Section 727 2014 Act).

The protection of limited liability will be lost with effect from the date of strike off and any assets of the company will vest in the Minister for Public Enterprise under the State Property Act 1954 by operation of law on dissolution of the company. (Section 734 (4) 2014 Act) Furthermore, the Director of Corporate Enforcement (ODCE) may apply to the High Court for an order pursuant to section 842 of the Companies Act 2014, disqualifying the company’s directors from acting as director, or having any involvement in the management, of any company, together with an order for the legal costs incurred by the ODCE in bringing such an application and the costs incurred by that Office in investigating the matter.

Because of the emphasis on the latest return, the inclusion of a company in the list for enforcement action need not concern any company that files on time in the current year. However, if a company does not file its current return on time, the nature of the enforcement measure which will be employed will be determined by reference to the company's compliance with its return filing obligations in previous years.

### **RESTORATION**

A company can be restored to the register of companies in one of two ways depending on the period of time that has elapsed since the company was struck off:

- Administrative action
- Court order

Under the Companies Act 2014, there is no separate form for the restoration of a company struck off following action by the Revenue Commissioners. Form H1 is used for such restoration applications.

Part of the effect of strike-off and dissolution is that the liability, if any, of a director, other officer or a member of a company that has been dissolved via strike off shall continue and may be enforced as if the company had not been dissolved. The High Court has the power to wind up a company that has been struck off the register or dissolved under that section.

### **RESTORATION VIA ADMINISTRATIVE ACTION**

Where a company has been struck off and dissolved for a period not exceeding 12 months, it may, on the application of an officer or member of the company, make an application for restoration to the Registrar of Companies. (A separate process is available and applicable to Owner Management Companies, See below).

#### **Process for restoration**

Where a company has been struck off pursuant to section 733 Companies Act 2014, section 311 Companies Act 1963 or section 12(3) Companies (Amendment) Act 1982, or for its failure under section 727(b) to deliver the statement required under section 882 of the Taxes Consolidation Act 1997 or section 12A Companies (Amendment) Act 1982, it may make an application to the Registrar of Companies to have itself restored to the register.

An application for restoration should be made on Form H1. The Form H1 must be received by the Registrar within 12 months of the date of the company's dissolution. There are a number of documents that must be submitted with the form.

The following requirements must be met within 15 months of the date of the dissolution of the company:

- All annual returns, together with the financial statements which are required to be annexed to same pursuant to the provisions of the Companies Act 2014, which are outstanding from the company, if any, are also delivered to the CRO.
- Failure to complete an application for an administrative restoration within a year and meet the requirements outlined above within 15 months of the dissolution of the company, will mean the presenter must apply to the court and follow the court restoration process.

## **Multi-Unit Developments Acts 2011**

An Owners Management Company is defined in Section 1 of the Multi-Unit Developments Act 2011 (a company established for the purposes of becoming the owner of the common areas of a multi-unit development and the management, maintenance and repair of such areas and which is a company registered under the Companies Acts). Where such a company has been struck off pursuant to section 733 Companies Act 2014, section 311 Companies Act 1963 or section 12 Companies (Amendment) Act 1982, it may make an application to the Registrar of Companies to have itself restored to the register.

An application for restoration should be made on Form H1-OMC after the first year and before the expiration of six years from the date of the company's dissolution. (If restoration is being made within 12 months of the dissolution, form H1 must be used instead). Provided that all annual returns, together with the financial statements which are required to be annexed to same pursuant to the provisions of the Companies Act 2014, which are outstanding from the company, if any, are also delivered to the CRO, the Registrar is empowered to restore the name of the company to the register.

Unless the accountant's/solicitor's certificate accompanies the form, the company cannot be restored to the register. Without a certified copy of the deed of transfer of the common areas or a part thereof in respect of the multi-unit development in relation to which the company was incorporated, the company cannot be restored. "Certified copy" means a copy of the deed of transfer that has been certified by a solicitor as a true copy of the original deed.

### **RESTORATION VIA COURT ORDER**

Where a company has been struck off and dissolved for a period exceeding 12 months, administrative restoration by the Registrar of Companies is not possible.

However, provided that 20 years has not elapsed from the date of its dissolution, the company or any member may make an application to the High Court for restoration where the company was struck off voluntarily at the request of the company, or by any officer or member of the company where the company was struck off for non-filing of annual returns or at the request of Revenue for non-delivery of a statement to it. (An investment company can only be restored by Registrar application within 2 years under section 1403 Companies Act 2014).

It is advisable that legal advice be obtained in relation to any proposed application to court for restoration.

A restoration application must be made on notice to the Registrar of Companies, the Minister for Public Expenditure and Reform and the Revenue Commissioners, each of whom has various procedural requirements before a letter of no objection to the restoration can be issued. The Chief State Solicitor's Office represents the CRO and the Minister for Public Expenditure and the Revenue Solicitor represents Revenue.

### **Company/member/officer & restoration**

A company that has been dissolved for a period of less than 20 years may apply to the High Court to be restored. The company will generally opt for administrative restoration when less than 12 months has expired since the company was dissolved, as this is a speedier and cheaper option than a High Court application.

The application for court restoration is made under section 738 CA 2014. The director, member or solicitor acting on behalf of the company should submit a letter, signed by a Director of the Company or by a solicitor acting on behalf of a Director of the Company, to Enforcement Section, CRO, requesting confirmation that the Registrar of Companies has no objection to the restoration of the company to the Register.

The Registrar will furnish a letter of no objection to an application pursuant to section 739(1) to restore a company to the register, subject to compliance with the following:

All outstanding annual returns (including the financial statements which are required to be annexed pursuant to the provisions of the CA 2014) are delivered to the CRO, and are in order. Non-trading companies (dormant companies) must submit with each annual return an auditor's report & a balance sheet reflecting the share capital.

When the annual returns have been filed and checked, a letter of no objection to the restoration application will issue from CRO, subject to the restoration order including a provision that it will lapse unless it is delivered by the applicant to the Registrar of Companies within 28 days after the date of its perfection. In the event that it is not complied with within the period specified, the company will remain dissolved.

Where good cause is shown why the finalised returns cannot be submitted prior to the court hearing, the Registrar of Companies may issue a letter of no objection which is strictly conditional upon the restoration order sought including a provision that the order will lapse in the event of annual returns and accounts not being delivered by the applicant to the Registrar of Companies pursuant to the Companies Act 2014, within the timeline specified in the order. This letter will clearly state that the CRO is not in receipt of outstanding annual returns and it will be a matter for the court to decide whether or not a restoration order may be made in these circumstances.

A restoration order made by the Court will not have effect unless all outstanding returns, including financial statements, are delivered to the CRO within the period specified in the court order. A certified copy of the court order must be filed within 28 days after the date of perfection of the order. In the event that it is not complied with within the period specified, the company will remain dissolved.

Following the lodgement of the court order in the CRO, the company's designation is changed from "Dissolved" to "Normal", effective from the date of receipt of the court order in CRO. Notice of the restoration of the company will be published by CRO in CRO Gazette in due course.

### **Creditors & restoration**

A creditor of a company, which was dissolved as a result of its failure to file annual returns, at the request of the Revenue or due to a voluntary strike-off request, may apply to the Circuit Court or High Court at any time to have that company restored to the register, provided that 20 years has not elapsed since the date of dissolution of the company.

If the company was struck off, a creditor may apply to the High Court or Circuit Court, pursuant to section 738(2)(b) Companies Act 2014, for the restoration of the company.

The following steps are required to be followed by the creditor or his/her/its solicitor

1. (a) Submit a letter to Enforcement Section, CRO, requesting confirmation that the Registrar of Companies has no objection to the restoration of the company to the Register. The Registrar will issue a letter of no objection to a creditor or solicitor strictly subject to notice being given by or on behalf of the creditor to the last recorded (as per CRO records) officers of the dissolved company:
  - (i) of the hearing date of the restoration application, and
  - (ii) that, pursuant to section 740(4) Companies Act 2014, a direction will be included in the court order that :
2. (a) there is procured by one or more specified members or officers of the company the delivery by the company of all outstanding annual returns, in accordance with Part 6 Companies Act 2014 to the Registrar;  
(b) there is delivered by such specified members or officers all outstanding statements as required by section 882 of the Taxes Consolidation Act 1997 in relation to the company to the Revenue Commissioners;
3. (a) such specified members or officers take all reasonable steps to ensure that the company appoints a director and delivers to the Registrar the notification and consent required by section 149(8) and (10), respectively, and either that –
  - (i) the person so appointed is resident in a Member State of the EEA; or
  - (ii) unless a certificate under section 140 in relation to the company has been granted by the Registrar and is in force, the company provides the Registrar with a bond in accordance with section 137. The Registrar will issue a letter of no objection to the application provided the restoration order includes a provision that it will lapse unless it is delivered by the applicant creditor to the Registrar within 28 days after the date of its perfection.

An application to the High Court or the Circuit Court under section 738 by a creditor shall be made on notice to the Registrar, the Minister for Public Expenditure and Reform and the Revenue Commissioners.

Following the making of a High Court order restoring the company, deliver to the CRO for registration a certified copy of the order, together with the filing fee, within 28 days after the date of its perfection.

Following the lodgement of the court order in the CRO, the company's designation is changed from "Dissolved" to "Normal", effective from the date of receipt of the court order.

Notice of the restoration of the company will be published by CRO in CRO Gazette in due course. A company search carried out at [www.cro.ie](http://www.cro.ie) will also show that the company has been re-instated. The date of re-instatement will also appear on a company printout.

In order to be a "creditor" for the purposes of the court application for restoration, the law is that the applicant must have been a creditor at the time the company was struck off the register.

## Restoration and Company Type

After the end of the Transition Period, (30th November 2016), where a company is restored to the register and has not undergone the changes required by the Companies Act 2014, the changes will need to be implemented at restoration.

Public guarantee companies must include “Company Limited by Guarantee” at the end of their names unless exempted. Private guarantee companies must include “Designated Activity Company” at the end of their name unless exempted. Unlimited companies must include “Unlimited Company” at the end of their name. Private companies limited by shares will become LTD companies under Part 2 of the Companies Act 2014. If such a company is required/desires to become a Designated Activity Company, then the company once restored can use the re-registration process under Part 20 of the Act.

### 3.10.4 Classes of records held

The following series are held:

IEE Integrated Enforcement Environment, Documents on RSS, Company Strike Off Correspondence, IT Issues, Managing the Work, Prosecution, Restorations, Section Administration, Staff Matters

### 3.10.5 Contact points

Name	Area of responsibility	Telephone	E-mail
Michael Neville	Section manager	01 804 5352	michael.neville@dbei.gov.ie

## 3.11 BUSINESS NAMES

### 3.11.1 Structure and organisation

The role of Business Names Section is to process applications to register (a) business names, (b) changes to any particulars already registered, and (c) cessations of business names in accordance with the Business Names Act 1963 and to make the details available for the public record.

The structure of the section is:

Claire Crowley  
Assistant Principal

Paddy Porter  
Higher Executive Officer

1 Executive Officer

4 Clerical Officers

### 3.11.2 Delivery of service

The section is charged with checking, registering and scanning documents for public availability and in doing so, provides an effective, efficient and accessible source of business name information to clients.

### 3.11.3 Rules and practices

#### BACKGROUND

A business name is a name used to carry on business by any individual, body corporate or partnership (whether of individuals and/or bodies corporate), which has a place of business in the Republic of Ireland, and which name is not the same as their own true name(s).

The Business Names Act 1963 applies to:

- an individual who trades under a name which is not his/her true surname. It makes no difference whether the individual's first names or initials are added. So the Act would apply to Mr. John Murphy if he traded as "Murphy Builders" but not if he traded as "Murphy" or "John Murphy";
- a partnership which does not trade under the true names of all partners who are individuals and/or the full corporate name of all partners which are bodies corporate;
- a company which trades under a name which is not its full corporate name, for example "Murphy Construction Limited" trading as "Murphy Builders";
- a person who, having a place of business in the State, carries on the business of publishing a newspaper.

The applicant must have a place of business in the State and carry on business under a business name.

## REGISTRATION OF BUSINESS NAMES

The particulars for registration should be furnished within one month of the date of the adoption of the name.

Please see Information Leaflet 14 regarding business name registration. The forms of application for registration are:

- RBN1 for an individual
- RBN1A for a partnership
- RBN1B for a body corporate

Applications can be filed electronically at [www.core.ie](http://www.core.ie).

The CRO registration fee is currently €40 for paper applications and €20 for electronic applications filed at [www.core.ie](http://www.core.ie). Applications can be paid for online with chip & pin enabled credit/debit cards.

### Registration of a business name

- does not give protection against duplication of the name
- does not imply that the name will necessarily prove acceptable subsequently as a company name
- does not authorise the use of the name if its use could be prohibited for other reasons. It should not for instance be taken as an indication that no rights (e.g. trade mark rights) exist in the name

### Checks to be made before applying to register a business name.

The CRO does not check proposed business names against names on the registers of companies, business names or trade marks. You are, therefore, advised to investigate the possibility of others having rights in the name you propose to use before incurring expenditure in stationery, etc.

You can check the register of companies and register of business names free of charge at [www.cro.ie](http://www.cro.ie). The search facility provides round the clock access to company/business information. It is identical to that available in the CRO public office and the results are instantly displayed. Alternatively, you can visit the CRO public office.

You can undertake a search of the trade mark register at:

The Patents Office  
Government Buildings, Hebron Road, Kilkenny

Tel: 056 772 0111/Locall 1890 220 223  
Fax: 056 772 0100/Locall 1890 220 120  
E-mail: [patlib@patentsoffice.ie](mailto:patlib@patentsoffice.ie)

Web: [www.patentsoffice.ie](http://www.patentsoffice.ie)

### Is business permission needed?

If you are a non-EEA national (the European Economic Area is comprised of the Member States of the EU plus Iceland, Liechtenstein and Norway) who intends to come to Ireland to establish a business, you will require the permission of the Minister for Justice and Equality to do so.

## **Certificate of registration**

The Registrar issues a Certificate of Registration for each business name registered. The original certificate of registration must be exhibited in a conspicuous position:

- in the case of a firm or individual, at the principal place of business, with an official duplicate certificate so exhibited in every branch office or place where the business is normally carried on
- in the case of a body corporate, at its registered office in the State with an official duplicate certificate so exhibited in every branch office or place where the business is normally carried on

In all business letters, circulars and catalogues on or in which the business name appears, and which are sent by the owner of the business name to any person, the following must be legibly stated in relation to the owner:

- in the case of an individual, his/her present name, any former names, and his/her nationality, if not Irish
- in the case of a firm, the present name and any former names, and the nationality, if not Irish, of all the partners in the firm, or in the case of a body corporate being a partner, the corporate name
- in the case of a body corporate (other than a company registered under the Companies Act), the full name of the company (note that the only permitted abbreviation is “Ltd” for Limited, “PLC” for “Public Limited Company” etc.), the names and any former names of the directors, and their nationality, if not Irish

All Irish-registered companies are required to mention the name of the company in legible characters in all business letters of the company and in all notices and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all invoices, receipts and letters of credit of the company.

The following additional particulars are required to be displayed by an Irish-registered limited company on its business letters and order forms:

- the legal form of the company
- place of registration e.g. registered in Dublin, Ireland
- registered number i.e. number of Certificate of Incorporation
- address of the registered office (where this is already shown on the document, the fact that it is the registered office must be indicated)
- if the share capital of a company is mentioned in the business letter and order forms, the reference must be to the paid-up share capital

## **Registration of changes**

When a change occurs in any of the particulars registered, (eg. change of business name or business address) it should be notified to the CRO within one month of the date of the change.

The forms for notifying changes are:

- RBN2 for an individual
- RBN2A for a partnership
- RBN2B for a body corporate

### ***Cessation of business name***

When an individual or firm ceases to carry on business under a business name a Form RBN3 should be delivered to the CRO within three months after the business has ceased.

Please see Information Leaflet 14 regarding business name registration.

#### **3.11.4 Classes of records held**

The following series is held:

Business Names

#### **3.11.5 Contact points**

Name	Area of responsibility	Telephone	E-mail
Paddy Porter	Section manager	059 9178861	paddy.porter@dbei.gov.ie

## 3.12 ELECTRONIC FILING

### 3.12.1 Structure and organisation

The role of Electronic Filing Section is to enable clients of CRO to file documents online.

The structure of the section is:



### 3.12.2 Rules and practices

The most commonly filed CRO Forms maybe filed electronically. They can either be filed online via [www.core.ie](http://www.core.ie) or using a secretarial package. In order to avail of this latter service, a presenter needs:

- A CRO account;
- A company secretarial software package;
- Internet access;
- A ROS electronic certificate;
- To be registered as a presenter (Form J1a);
- Authorisation from directors/secretaries to file on their behalf (form B77).

Also, each director/secretary who will sign returns must apply to Revenue for a ROS Digital Certificate.

### 3.12.3 Classes of records held

The following series are held:

Administration, European Projects, IT, Meetings, Staff Matters, Website, Projects, Forms

### 3.12.4 Contact points

Name	Area of responsibility	Telephone	E-mail
Des Kennedy	Section manager	01 804 5389	<a href="mailto:des.kennedy@dbei.gov.ie">des.kennedy@dbei.gov.ie</a>

### 3.13 PUBLICATIONS

#### 3.13.1 Structure and organisation

The role of Publications Section is to ensure greater awareness amongst companies, officers and professional advisers of their duties and responsibilities.

The structure of the section is:

Assistant Principal Claudine Forrest
Gavin Regan Higher Executive Officer
1 Clerical Officer

#### 3.13.2 Delivery of service

##### Creating awareness

Publications Section is charged with implementing the campaign plan which involves (a) improving ease of access to, quality and understanding of the CRO's reference materials, forms, website, etc., (b) creating an identity that makes the CRO distinctive and recognisable, (c) using methods which reach the optimum number of customers most efficiently at the lowest cost, and (d) considering approaches designed to make clients respond positively towards the CRO.

#### 3.13.4 Classes of records held

The following series are held: Advertising, CRO Information Leaflets, CRO Forms, CRO Website, Customer Awareness, Staff Matters

#### 3.13.5 Contact points

Name	Area of responsibility	Telephone	E-mail
Gavin Regan	Section manager	01 804 5311	<a href="mailto:gavin.regan@dbei.gov.ie">gavin.regan@dbei.gov.ie</a>

### 3.14 ADMINISTRATION

#### 3.14.1 Structure and organisation

The role of Administration Section is to provide internal administration for the CRO.

The structure of the section is:

Dermot Madden Professional Accountant Grade 1		
Vivien Cunningham Higher Executive Officer		
General Administrator	Deposits Accounts/ secretarial	General Support Services
1 Executive Officer	1 Clerical officer	1 Deputy Head Services Officer 2 Services Officers

#### 3.14.2 Delivery of service

Administration is responsible for ensuring suitable accommodation, central purchasing of office supplies/equipment, compliance with health and safety requirements and providing day to day services required by the Office.

#### 3.14.3 Rules and practices

##### Procurement of goods and services

The award of contracts is in accordance with procedures outlined in the Department of Finance booklet, Public Procurement <http://www.procurement.ie/>.

##### Payments

Payment of due amounts to suppliers are made within 30 calendar days of receipt of an invoice or date of supply, whichever is the later or, where the contract is in writing, on or before the date due under the terms of the contract, in accordance with the Prompt Payment of Accounts Act 1997.

#### 3.14.4 Classes of records held

The following series are held:

Administration, Finance  
Freedom of Information, Serving the Political System

#### 3.14.5 Contact points

Name	Area of responsibility	Telephone	E-mail
Vivien Cunningham	Section manager	01 804 5263	Vivien.cunningham@dbei.gov.ie

## 3.15 TRAINING

### 3.15.1 Structure and organisation

The overall objective of the Training Unit is to support the training and development needs of the CRO.

The structure of the unit is:



### 3.15.2 Delivery of service

With the continuously changing environment and ever increasing demands being made on staff at all levels, it is necessary to ensure that skills are upgraded on an ongoing basis. The Training Unit provides a range of general training programmes in the areas of induction, customer service, and the Office's data processing system. The unit also facilitates participation on external events and seminars.

### 3.15.3 Rules and practices

The performance of each member of staff in the CRO is formally appraised. The introduction of the performance management system is now a key driver in determining training and development needs. It contributes to personal development by enabling each member of staff and manager to identify his/her role in the overall goals of the Office.

To help equip staff deal with customers, every new member of staff is obliged to attend a two-day induction course. In addition, on-the-job training is organised and presentations on developments in company law are also arranged.

### 3.15.4 Classes of records held

The following series are held:

Administration, Procedures, Courses

### 3.15.5 Contact points

Name	Area of responsibility	Telephone	E-mail
Gavin Regan	Section manager	01 804 5311	<a href="mailto:gavin.regan@dbei.gov.ie">gavin.regan@dbei.gov.ie</a>

## 3.16 INFORMATION TECHNOLOGY

### 3.16.1 Structure and organisation

The role of the IT Unit is to provide an efficient and effective IT service for the CRO and its clients.

The structure of the section is:

Claudine Forrest Assistant Principal
Des Kennedy Higher Executive Officer
1 Executive Officer
1 Clerical Officer

### 3.16.2 Delivery of service

IT Unit is charged with maintaining, improving and supporting all CRO IT systems in order to provide access for the CRO's internal and external customers.

### 3.16.3 Rules and practices

#### Supply of bulk data to CRO customers

The frequency of data supply to the CRO's bulk customers is set down in the supply contract between the CRO and the customers e.g. daily, fortnightly. If the CRO is late in providing certain data within the stipulated time frame, a penalty is imposed on the CRO in that no costs are incurred by the customer on that occasion.

#### Procurement of IT goods and services

The award of contracts is in accordance with procedures outlined in the Department of Finance booklet, Public Procurement <http://www.procurement.ie/>.

### 3.16.4 Classes of records held

The following series are held:

Administration, Customers, Development, New Systems, Purchasing, Reports, Staffing, Freedom of Information, Serving the Political System

### 3.16.5 Contact points

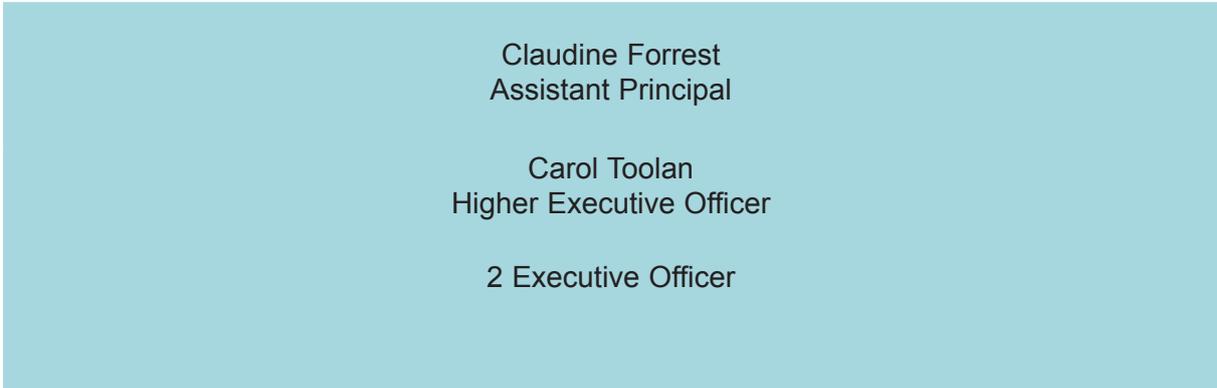
Name	Area of responsibility	Telephone	E-mail
Des Kennedy	Section manager	01 804 5382	des.kennedy@dbei.gov.ie

### 3.17 DIGITAL DEVELOPMENT UNIT

#### 3.17.1 Structure and organisation

The role of the DD Unit is to provide an efficient and effective system for the CRO staff and its clients.

The structure of the section is:



#### 3.17.2 Delivery of service

The DDU is charged with developing new CRO interfaces and databases in order to provide access for the CRO's internal and external customers.

#### 3.17.3 Contact points

Name	Area of responsibility	Telephone	E-mail
Carol Toolan	Section manager	01 804 5377	carol.toolan@dbei.gov.ie

# APPENDIX 1

## FEES

1. Registration fees are as follows:

Form	Description	Paper	Electronic
		€	€
A1	New Company	100	50 (Online A1)
A4	Application by public limited company to commence business and declaration of particulars	300	n/a
B1	Annual Return (must be filed electronically together with its financial statements)	n/a	20
B1X	Voluntary rectification of Defective Financial Statements	15	n/a
B2	Change in company registered office (must be filed electronically from June 2017)	n/a	Nil
B3	Notice of place where register of members, debenture holders, directors service contracts/memoranda are kept	15	Nil
B4	Notice of increase in authorised capital	15	Nil
B5	Return of allotments	15	n/a
B7	Notice of consolidation and division, or conversion into stock of shares, or of the re-conversion into shares of stock, or the subdivision or redemption or cancellation of shares	15	n/a
B9	Notice of increase in members	15	n/a
B10	Change of director/secretary, or change in their particulars, resignation, change of residential address etc. (must be filed electronically)	n/a	NIL
B10a	Change in directors address/name filed in relation to multiple companies	n/a	nil
B11	Statement of particulars of rights attached to shares allotted and not otherwise registerable	15	n/a
B12	Statement of particulars of variation of rights attached to shares and otherwise registerable	15	n/a
B13	Notice of assignment of name or new name to any class of shares registerable under s.90(4) 2014 Act	15	n/a
B18	Registration of a prospectus approved by the Central Bank for issue by an Irish registered company	15	n/a
B18a	Registration of a local offering document for an amount not exceeding €5,000,000	15	n/a
B46	Notice of authorisation/revocation of authorisation of person to bind the company	15	n/a
B67	Application for certificate that company has a real/continuous link with one or more economic activities that are being carried out in the State	40	n/a
B68	Application for certificate that company should not be reckoned for the purpose of determining the number of companies of which a person is director	40	n/a
B69	Notice that a person has ceased to be an officer where the company has failed to file a Form B10	40	NIL
B73	Nomination of a new annual return date (must be filed electronically)	n/a	n/a

B74	Statement of Directors Disqualifications	None. Filed with form A1 or B10	n/a
B74a	Notice of director's foreign disqualifications subsequent to appointment as a director.	15	n/a
B77	Notice of Authorisation/Revocation of Authorisation of Electronic Filing Agent (EFA)	15	nil
B78a	Nomination of a new Annual Return Date for holding and/or subsidiary undertaking	15	n/a
B83	Alteration of Financial Year End Date	15	n/a
CBM1	Cross Border Merger form	15	n/a
C1	Particular of a charge	n/a	40
C1A	Particulars of a charge (Irish company) (stage one of two stage procedure)	n/a	40
C1B	Particulars of a charge (Irish company)(stage two of two stage procedure)	n/a	nil
C3	Particulars of a charge subject to which property has been acquired by a company incorporated in the State	40	n/a
C6	Full satisfaction of charge	15	n/a
C7	Partial satisfaction of charge	15	n/a
C10	Judgment Mortgage	40	n/a
C17	Change in Person Entitled Particulars in relation to charge registered	15	n/a
D6	Application by a limited company to be reregistered as unlimited	n/a part of application	n/a
D6C	Members assent to company being re-registered as a Company Limited by Guarantee (CLG)	n/a part of application	
D6D	Members assent to company being re-registered as a Designated Activity Company Limited by Guarantee (DAC)	n/a part of application	
D13	Notice of application made to court for cancellation of a special resolution regarding re-registration	15	n/a
D20	Application to re-register company type	60	n/a
DM1	Notice of delivery of Common Draft Terms of Merger - Part 9 Companies Act 2014	15	n/a
DM2	Notice of delivery of Common Draft Terms of Merger - Part 17 Companies Act 2014	15	n/a
DV1	Notice of delivery of Common Draft Terms of Division - Part 9 Companies Act 2014	15	n/a
DV2	Notice of delivery of Common Draft Terms of Domestic Division - Part 17 Companies Act 2014	15	n/a
E1	Declaration of solvency	15	n/a
E2	Notice of appointment of liquidator	15	n/a
E2a	Notice of resignation of liquidator	15	n/a
E2b	Notice of removal of liquidator	15	n/a
E2c	Notice of appointment of new liquidator following removal of previous liquidator	15	n/a
E3	Liquidator's annual account of his/her acts and dealings	15	n/a
E4	Liquidator's account and affidavit.	15	n/a
E5	Liquidator's final statement of account	15	n/a
E6	Return of the final liquidator's meeting (members)	15	n/a
E669	Notice of annulment of winding up	15	n/a
E7	Return of the final liquidator's meeting (creditors)	15	n/a

E8	Notice of appointment of receiver	15	n/a
E9	Receivers abstract	15	n/a
E10	Statement of affairs. Receivership	15	n/a
E11	Notice of cessation of receiver	15	n/a
E24	Notice of petition for appointment of examiner	15	n/a
F2	Alterations in the memorandum/articles of an external company	15	n/a
F3	Change in the director/secretary/persons who represent the company/persons responsible for compliance	15	n/a
F4	Change in address of branch in the State	15	nil
F7	Return of accounting documents of an external company	15	n/a
F8	Particulars of a charge on property in the State created by an external company	n/a	40
F8a	Particulars of a charge on property in the State created by an external company (Two stage procedure - stage one)	n/a	40
F8b	Particulars of a charge on property in the State created by an external company (Two stage procedure - stage two)	n/a	nil
F9	Particulars of a charge subject to which property in the State has been acquired by an external company	40	n/a
F12	Registration of a company which is a branch of European Economic Area country company	60	n/a
F13	Registration of a company which is a branch of a non-European Economic Area country company	60	n/a
F14	Notification of winding up/closure of branch of an external company	15	n/a
F15	Notice of judgment opening Insolvency Proceedings in another Member State/decision appointing Liquidator	15	n/a
G1	Special resolution	15	nil
G1Q	Special resolution - Change of Name	100	50
G2	Ordinary resolution	15	nil
	Resolution and any document lodged in connection with it. €15 per document. eg. Resolution with constitution has fee of €30.		
H1	Restoration of a company to the register	300	n/a
H1-OMC	Restoration of a company to the register. Owner Management Companies only.	300	n/a
H15	Voluntary strike-off request	15	n/a
H16	Objection to voluntary strike-off by creditor	15	n/a
H17	Cancellation of voluntary strike-off procedure by company	15	n/a
H2	Notice of disclosure order	15	n/a
H3	Notice of removal of auditor	15	n/a
H4	Notification that proper books of account are not kept	15	n/a
H5	Return by a company purchasing its own shares and/or shares in a holding company	15	n/a
H5a	Return for re-issue of former treasury shares	15	n/a
IG1	Registration of an EEIG whose official address is in Ireland	190	n/a
IG2	Registration of grouping establishment in Ireland fo EEIG whose official address is outside Ireland	190	n/a
IG3	Notice of setting up of grouping establishment of an EEIG whose official address is in Ireland	30	n/a
IG4	Notice of closure of grouping establishment of an EEIG	30	n/a

IG5	Notice of manager's particulars and of termination of appointment	30	n/a
IG6	Notice of documents and particulars required to be filed by EEIG	30	n/a
IG7	Notice of proposal to transfer official address of an EEIG	190	n/a
IG8	Annual Return for an EEIG	30	n/a
J1a	Application to act as a statutory electronic filing agent	No fee	n/a
LP1	Application for registration of a limited partnership	2.50	n/a
LP2	Notice of change in a limited partnership	0.30	n/a
LP3	Statement of the capital contributed by limited partnerships	nil	n/a
LP4	Statement of increase of capital contributed in cash, or otherwise, by limited partners	nil	n/a
P1	Return of accounting documents of partnerships and limited partnerships	15	n/a
RBN1	Application for registration of a business name by an individual	40	20
RBN1A	Application for registration of a business name by a partnership	40	20
RBN1B	Application for registration of a business name by a body corporate	40	20
RBN2	Nature of change in particulars of a business name registered by an individual	15	Nil (Change of address only)
RBN2A	Nature of change in particulars of a business name registered by a partnership	15	Nil (change of address only)
RBN2B	Nature of change in particulars of a business name registered by a body corporate	15	Nil (change of address only)
RBN3	Cessation of a business name	free	free
Summary Approval Procedure forms	Forms SAP203, SAP204, SAP 205 and SAP206	15	n/a
Societas Europaea	Forms SE1, SE2, SE3, SE4, SE6, SE7, SE16, SE17, SE18	100	n/a
Societas Europaea	Forms SE8, SE9, SE10, SE11, SE12, SE13, SE14, SE15, SE19	15	n/a
Societas Europaea	Form SE5 - Formation of subsidiary SE by a Societas Europaea	60	n/a
	Notification by an auditor of termination of his/her appointment by a company, which intends to avail of the audit exemption. Section 399 Companies Act 2014	nil	n/a
	Notification by an auditor of his/her resignation as auditor to a company pursuant to s.401 of the Companies Act 2014	15	n/a
	All other post-incorporation Documents including court orders.	15	n/a
T1	Redaction of new residential address: company officer	No fee. <i>Submitted together with form of appointment of company officer</i>	n/a

## 2. Services

	Paper	Electronic
Image of document	2.50	2.50
Printout of a company/business name	3.50	3.50
Search on a company/business name file	3.50	3.50
Duplicate certificate of a company/business name	12.00	Nil (for public sector use only)
Letters of status	3.50	N/A

## 3. Methods of Payment

Payment may be made by way of:

- Cash (cash should not accompany documents sent by post)
- Postal money order
- Bank draft
- Cheque (drawn on a bank in the Republic of Ireland)
- Credit/debit card may be used for online company searches or online deposits to a CRO customer account.

Postal/money orders, bank drafts and cheques should be made payable to the Companies Registration Office (full title).

Foreign currency, sterling and euro items drawn on banks outside the Republic of Ireland are no longer acceptable, because of service charges for cheque clearance. Therefore, payments from outside the Republic of Ireland for document registration, document requests and miscellaneous services must be on an euro denominated bank draft drawn on a bank in the Irish clearing system.

The CRO does not accept cheques to top up a customer account or to pay for the filing fee of an annual return (form B1). A customer account can be topped up by credit card or through an Electronic Funds Transfer (EFT) provided that the customer account number is used as a reference on the EFT and notification by email is sent to indicate such a transfer has occurred.

## APPENDIX 2

### INFORMATION LEAFLETS PUBLISHED BY THE CRO

Leaflet No.	Leaflet Subject Matter
1	COMPANY INCORPORATION
2	SIX THINGS THAT EVERY COMPANY DIRECTOR SHOULD KNOW ABOUT COMPANY REGISTRATION
4	FEES
5	EXTERNAL COMPANIES
6	LIMITED PARTNERSHIP
7	LETTERHEADS
8	COMPANY CHANGE OF NAME
11	RESTORATION OF A COMPANY TO THE REGISTER
14	BUSINESS NAMES REGISTRATION
15	ELECTRONIC FILING AGENT
16	THE COMPANY SECRETARY
17	EUROPEAN ECONOMIC AREA RESIDENT DIRECTOR
18	RESIGNATION OF DIRECTOR/SECRETARY WHERE B10 NOT FILED BY THE COMPANY
19	SOCIETAS EUROPAEA
20	STATUTORY DECLARATIONS
23	ANNUAL RETURNS AND FINANCIAL STATEMENTS
24	EXEMPTION OF COMPANY TYPE FROM COMPANY NAME
25	SECTION 24 LICENCE EXEMPTION: PRIOR 1 <sup>ST</sup> MARCH 2002
27	MORTGAGES
28	VOLUNTARY AND INVOLUNTARY STRIKE-OFF, INTERGRATED ENFORCEMENT ENVIRONMENT
29	OFFENCES UNDER THE COMPANIES ACT 2014
35	RE-REGISTRATION UNDER PART 20 COMPANIES ACT 2014
36	REQUIREMENTS FOR DIRECTORS
37	SHARE CAPITAL AND RESOLUTIONS
38	LIQUIDATIONS, RECEIVERSHIPS AND EXAMINERSHIPS
39	EXTENSION OF TIME TO FILE ANNUAL RETURN - DISTRICT COURT

# APPENDIX 3

## LEGISLATION

### COMPANY LEGISLATION

#### **Companies Acts**

Companies Act 2014  
Companies (Accounting) Act 2017  
Companies (Amendment) Act 2017  
Companies (Statutory Audits) Act 2018

#### **Orders and Regulations**

European Communities (International Financial Reporting Standards and Miscellaneous Amendments) Regulations 2005 (S.I. No. 116 of 2005)  
Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005)  
European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008)  
Companies Act 2014 (Forms) Regulations 2015 (S.I. No. 147 of 2015)  
Companies Act 2014 (Commencement) Order 2015 (S.I. No. 169 of 2015)  
Companies Act 2014 (Section 897) Order 2015 (S.I. 203 of 2015)  
Companies Act 2014 (Forms)(No.2) Regulations 2015 (S.I. 212 of 2015)  
Companies Act 2014 (Fees) Regulations 2015 (S.I. 213 of 2015)  
Companies Act 2014 (Recognised Stock Exchanges) Regulations 2015 (S.I. 214 of 2015)  
Companies Act 2014 (Bonding) Order 2015 (S.I. 215 of 2015)  
Companies Act 2014 (Part 14 Prescribed Officers) Regulations 2015 (S.I. 216 of 2015)  
Companies Act 2014 (Section 208 Report) Regulations 2015 (S.I. 218 of 2015)  
Companies Act 2014 (Section 623 Account) Regulations 2015 (S.I. 219 of 2015)  
Companies Act 2014 (Commencement)(No.2) Order 2015 (S.I. 220 of 2015)  
Companies Act 2014 (Section 682) Regulations 2015 (S.I. 221 of 2015)  
Companies Act 2014 (Disqualification and Restriction Undertakings) Regulations 2015 (S.I. 222 of 2015)  
Companies Act 2014 (Section 1313) Regulations 2015 (S.I. 223 of 2015)  
European Communities (Accounts) (Amendment) Regulations 2015 (S.I. 224 of 2015)  
Companies Act 2014 (Section 150) Regulations 2015 (S.I. 225 of 2015)  
Rules of the Superior Court (Companies Act 2014) Rules 2015 (S.I. 255 of 2015)  
District Court (Companies Act 2014) Rules 2015 (S.I. 256 of 2015)  
Irish Collective Asset-management Vehicles Act 2015 (Forms) Regulations 2015 (S.I. 258 of 2015)  
Irish Collective Asset-management Vehicles Act 2015 (Fees) Regulations 2015 (SI 259/2015)  
European Union (Insurance Undertakings: Financial Statements) Regulations 2015 (S.I. 262 of 2015)  
European Union (Credit Institutions: Financial Statements) Regulations 2015 (SI 266/2015)  
Circuit Court Rules (Companies Act 2014) 2015 (S.I. 471 of 2015)  
Companies Act 2014 (section 457) Regulations 2015 (S.I. 498 of 2015)  
Companies Act 2014 (Section 150)(No. 2) Regulations 2015 (S.I. 543 of 2015)  
Rules of the Superior Court (Companies Act 2014) (No.2) Rules 2015 (S.I. 616 of 2015)  
Companies Act 2014 (Section 1313) Regulations 2016 (S.I. 43 of 2016)  
European Communities (Statutory Audits) (Directive 2006/34/EC as amended by Directive 2014/56/EU and Regulation (EU) No 537/2014) Regulations 2016 (S.I. No. 312 of 2016)  
Companies Act 2014 (Section 897) Order 2016 (SI 458 of 2016)  
Multi Units Developments Act 2011 (Prescribed Forms and Fee) Regulations 2016 (SI 579 of 2016)  
Companies Act 2014 (Section 1313) Regulations 2017 - SI 127 of 2017

Companies (Accounting) Act 2017 (Commencement) Order 2017 - SI 246 of 2017  
Companies (Accounting) Act 2017 (Commencement)(No.2) Order 2017 - SI 250/2017  
European Union (Disclosure of Non-Financial and Diversity Information by certain large undertakings and groups) Regulations 2017 - SI 360 of 2017  
Companies Act 2014 (Forms) Regulations 2018 - SI 95 of 2018  
European Union (Undertakings for Collective Investment in Transferable Securities) (Amendment) Regulations 2018 - SI 241 of 2018  
Companies Act 2014 (Forms)(No.2) Regulations 2018 - SI 242 of 2018  
Companies (Statutory Audits) Act 2018 (Commencement) Order 2018 - SI 366/2018

### ***European Communities Acts 1972 and 1973***

The following regulations were made pursuant to the European Communities Acts 1972 and 1973:

European Communities (Admissions to listing and Miscellaneous Provisions) Regulations 2007 (S.I. No. 286 of 2007)  
European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011)  
European Communities (European Economic Interest Groupings) Regulations 1989 (S.I. No. 191 of 1989) to give effect to the provisions of Council Regulation (EEC) No. 2137/85  
Prospectus (Directive 2003/71/EC) Regulations 2005 (S.I. No. 324 of 2005)  
European Communities (Accounts) Regulations 1993 (S.I. No. 396 of 1993) to give effect to Council Directives 90/604/EEC and 90/605/EEC  
European Communities (Accounts) (Form) Regulations 1995 (S.I. No. 178 of 1995)  
European Communities (Insurance Undertakings: Financial Statements) Regulations 2015 (S.I. No.262 of 2015)  
European Communities (International Financial Reporting Standards and Miscellaneous Amendments) Regulations 2005 (S.I. 116 of 2005).  
European Communities (European Public Limited Liability Company) Regulations 2007 (S.I. No. 21 of 2007)  
European Communities (European Public Limited Liability Company)(Forms) Regulations 2007 (S.I. No. 22 of 2007)  
European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008)  
European Communities (Group Accounts) Regulations 2010 (S.I. No. 606 of 2010)  
European Union (Third Country Auditors and Third-Country Audit Entities Equivalence, Transitional Period and Fees) Regulations 2018 (SI. No 367 of 2018)

### **Rules of Court**

Rules of the Superior Courts 1986 (S.I. No. 15 of 1986)  
Rules of the Superior Courts (No. 3) 1991 (S.I. No. 147 of 1991)  
Rules of the Superior Courts (No. 2) 1991 (S.I. No. 177 of 1991)  
Rules of the Superior Courts (No. 4) 1991 (S.I. No. 278 of 1991)  
Rules of the Superior Courts (No. 1) 1993 (S.I. No. 238 of 1993)  
Rules of the Superior Courts (No. 2) 1993 (S.I. No. 265 of 1993)  
Rules of the Superior Courts (No. 1) 1994 (S.I. No. 101 of 1994)  
Superior Courts (Companies Act 2014)(No.2) 2015 (S.I. No. 616 of 2015)  
Rules of the Superior Court (Companies Act 2014) 2015 (S.I. No. 255 of 2015)

## **BUSINESS NAMES LEGISLATION**

### **Business Names Act**

Registration of Business Names Act 1963

### **Orders and Regulations**

The following Orders and Regulations were made pursuant to the Registration of Business Names Act 1963:

Registration of Business Names Act 1963 (Commencement) Order 1964 (S.I. No. 46 of 1964)

Business Names Regulations 2016 (S.I. No. 339 of 2016)

## **LIMITED PARTNERSHIP LEGISLATION**

### **Limited Partnership Acts**

Limited Partnership Act 1907

Companies Act 2014

Companies (Accounting) Act 2017

Finance Act 1973

Investment Limited Partnership Act 1994

### **Rules**

The following Rules were made pursuant to the Limited Partnership Act 1907:

Limited Partnerships Rules 1907 (1907 No. 1020)

European Communities (Accounts) Regulations 1993 (S.I. No. 396 of 1993)

Limited Partnership Regulations 2001 (S.I. No. 570 of 2001)

## APPENDIX 4

### LIST OF FORMS UNDER COMPANIES ACT 2014

Form No	Subject Matter
A1	Company incorporation
A4	Application by a PLC to commence business and declaration of particulars
a/c1	Opening a customer account with the CRO
B1	Annual return
B1X	Voluntary revision of defective financial statements (new form under 2014 Act)
B2	Change of registered office
B3	Notice of places where register of members, disclosable interests register, register of directors and secretaries, copies of instruments creating charges, minutes of meetings and directors' service contracts/memoranda are kept
B4	Notice of increase in authorised capital
B5	Return of allotments
B5C	Notice of proposed allotment: Dispensation from section 1028 under s.1031/1032
B7	Variation of Company Capital. Alteration of share capital
B9	Notice of increase in members
B10	Change of director and/or secretary, or in their particulars
B10a	Change in residential address/directors name particulars for a director in relation to multiple companies only
B11	Statement of particulars of rights attached to shares allotted and not otherwise registerable
B12	Statement of particulars of variation of rights attached to shares and not otherwise registerable
B13	Notice of assignment of name or new name to any class of shares registerable under s90 Companies Act 2014
B18	Registration of a prospectus approved by Central Bank for issue by an Irish registered company
B18a	Registration of local offering document for an amount not exceeding €5,000,000
B42A	Notice of rectification of register of members
B46	Notice of appointment/revocation of authorisation of Registered Person (person to bind the company)
B67	Certificate that company has real and continuous link to the State
B68	Notice re. exclusion of directorships from limit of 25
B69	Notification by individual that he/she has ceased to be a director or secretary
B73	Nomination of a new annual return date
B74	Statement of director's disqualifications
B74a	Statement of director's disqualifications subsequent to the appointment as director
B77	Notice of authorisation/revocation of authorisation of an Electronic Filing Agent
B78a	Nomination of a new annual return date - holding/subsidiary undertaking
B81	Application to act as a Registered Office Agent (ROA).
B83	Alteration of Financial year end
C1	Mortgage or charge created by Irish company - can only be filed online.
C1a	Registration of Mortgage/Charge created by Irish company - Stage 1 of two stage procedure under Companies Act 2014 - can only be filed online.
C1b	Registration of Mortgage/Charge created by Irish company - Stage 2 of two stage procedure under Companies Act 2014 - can only be filed online.
C3	Particulars of a charge subject to which property in the state has been acquired by a company incorporated in the State
C6	Declaration of satisfaction of charge
C7	Declaration of partial satisfaction of a charge
C10	Judgment Mortgage
C17	Change in Person Entitled particulars in relation to a charge
CBM1	Cross-Border Merger
D6	Application by a limited company to be re-registered as unlimited
D6C	Members assent to re-registration as a Company Limited by Guarantee
D6D	Members assent to re-registration as a Designated Activity Company (Guarantee)
D10	Application by a public limited company for re-registration as another form of

	company following cancellation of shares and diminution of share capital
D13	Notice of application made to the court for the cancellation of a special resolution regarding re-registration
D20	Application to re-register company type and statement of compliance
DM1	Notice of Common draft terms of merger involving two or more Irish companies Part 9 Companies Act 2014
DV1	Notice of Common draft terms of division involving two or more Irish companies Part 9 Companies Act 2014
DM2	Notice of Common draft terms of merger involving two or more Irish companies Part 17 Companies Act 2014
DV2	Notice of Common Draft Terms of Division involving two or more Irish companies under Part 17
E1(41)	Declaration of solvency - section 580 - Liquidation
E1 - SAP	Declaration of solvency - Summary Approval Procedure Section 207 - Liquidation
E2	Notice of appointment of liquidator
E2a	Notice of resignation of liquidator
E2b	Notice of removal of liquidator
E2c	Notice of appointment of liquidator following removal of previous liquidator
E3	Liquidator's account of his/her acts and dealings & of conduct of the winding up
E4	Liquidator's statement of proceeding and the position of the winding up
E5	Liquidator's final statement of account (members or creditors' winding up)
E6	Return of final winding up meeting (members' voluntary winding up)
E669	Notice of annulment of liquidation
E7	Return of final winding up meeting of members and creditors (creditors' voluntary winding up)
E8	Notice of appointment of receiver
E9	Receiver's abstract
E10	Statement of affairs - receivership
E11	Notice of cessation by receiver
E24	Notice of petition for appointment of examiner
F2	Alterations in the memorandum/ articles of external company
F3	Change in directors/secretary/persons who represent an external company
F4	Changes in address of external company
F7	Return of accounting documents of an external company
F8	Particulars of a charge on property in the state created by a company incorporated outside the state - can only be filed online
F8a	Notice of intention to register particulars of a charge by a company incorporated outside the State - can only be filed online
F8b	Confirmation of particulars of a charge created by a company incorporated outside the State -can only be filed online
F9	Particulars of a charge subject to which property in the state has been acquired by a company incorporated outside state
F12	Registration of a company which is a branch of a European country company
F13	Registration of a company which is a branch of a non-European country company.
F14	Notification of winding up/closure of branch of an external company
F15	Judgement opening insolvency proceedings in another MS/decision appointing liquidator
G1	Special resolution
G1Q	Change of name special resolution
G1-H15	Special resolution form - used in connection with Voluntary Strike-off only.
G2	Ordinary resolution
G5	Statutory declaration of compliance
H1	Restoration of a company to the register
H1-OMC	Restoration of an Owners Management Company to the register. <i>(Where restoration is sought within 12 months of dissolution, form H1 can be completed instead).</i>
H2	Notice of disclosure order
H3	Notice of removal of auditor
H4	Notification of notice that proper books of account are not kept
H5	Return by a company purchasing its own shares and/or shares in a holding company
H5a	Return for re-issue of former treasury shares
H15	Application for Voluntary Strike-off
H16	Objection to the Voluntary strike-off of a company

H17	Cancellation of the Voluntary strike-off of a company
ICAV1	Application by Irish company to be de-registered as an Irish company following its change to an ICAV (Irish Collective Asset-management Vehicle)
IG1	Registration of EEIG whose official address is in Ireland
IG2	Registration of grouping establishment in Ireland for EEIG whose official address is outside Ireland
IG3	Notice of setting up of grouping establishment of an EEIG: official address in Ireland
IG4	Notice of closure of grouping establishment of an EEIG
IG5	Notice of manager's particulars and of termination of appointment
IG6	Notice of documents and particulars required to be filed
IG7	Notice of proposal to transfer official address of an EEIG
IG8	Annual return of EEIG
J1a	Application to act as a statutory electronic filing agent
LP1	Application for registration of a limited partnership
LP2	Notice of change in a limited partnership
LP3	Statement of the capital contributed by limited partners
LP4	Statement of increase of capital contributed in cash, or otherwise, by limited partners
P1	Return of accounting documents of partnerships and limited partnerships
Q1	Application by migrating company to be registered as an Irish Company on the Irish register by way of continuation
Q2	Statutory declaration by director of migrating company which is applying to be registered as an Irish company on the Irish register by way of continuation
Q3	Statutory declaration regarding fulfilment of requirements prior to be registered as an Irish company by way of continuation
Q4	Statement that migrating company has been de-registered in relevant jurisdiction
Q5	Application by an Irish company to be de-registered as an Irish company by way of continuation
Q6	Statutory declaration by director where Irish company is applying to be de-registered as an Irish company by way of continuation in relevant jurisdiction
Q7	Statutory declaration regarding fulfilment of requirements prior to being de-registered as an Irish company by way of continuation
Q8	Statement that applicant company has been registered in a relevant jurisdiction
Q9	Statutory declaration that full inquiry has been made into the affairs of the company and that the company is able to pay its debts as they fall due
RBN1	Application for registration of a business name by an individual
RBN1A	Application for registration of a business name by a partnership
RBN1B	Application for registration of a business name by a body corporate
RBN2	Statement of change in particulars of a business name registered by an individual
RBN2A	Statement of change in particulars of a business name registered by a partnership
RBN2B	Statement of change in particulars of a business name registered by a body corporate
RBN3	Notice of cessation of a business name
SAP 203	Form for use with Summary Approval Procedure. Section 203 Companies Act 2014
SAP 204	Form for use with Summary Approval Procedure. Section 204 Companies Act 2014
SAP 205	Form for use with Summary Approval Procedure. Section 205 Companies Act 2014
SAP 206	Form for use with Summary Approval Procedure. Section 206 Companies Act 2014
SE1	Formation by merger of Societas Europaea
SE2	Formation of holding Societas Europaea
SE3	Formation of subsidiary Societas Europaea
SE4	Conversion of plc to Societas Europaea
SE5	Formation of subsidiary Societas Europaea by SE
SE6	Transfer of SE registered office to ROI
SE7	Transfer of SE registered office to ROI
SE8	Statement of solvency by directors of SE which is proposing to transfer from ROI
SE9	Request by SE for assignment of new ARD
SE10	Proposed transfer of registered office of SE from ROI
SE11	Draft terms of formation of holding SE involving an ROI registered company or SE
SE12	Draft terms of conversion of plc to SE
SE13	Notice of satisfaction of conditions for the formation of holding SE by an Irish company/SE
SE14	Amendments of statutes of SE
SE15	Notice of initiation of or termination of winding up liquidation, insolvency or

- SE16 cessation of payment procedures and decisions to continue operating of SE  
Draft terms of conversion from Irish registered Societas Europaea to public limited company.
- SE17 Application for the conversion of an Irish registered Societas Europaea to a public limited company
- SE18 Draft terms of formation of Societas Europaea in a foreign jurisdiction involving an Irish registered public limited company
- SE19 Draft terms of merger of Irish registered public limited company with non-Irish public limited liability company(ies) to form SE which will be registered in Ireland
- T1 Non-disclosure of residential address of a company officer.  
*(Only applies to a new address. Does not apply to an existing address on the register)*

## APPENDIX 5

### STATUTORY RETURNS, TIME FOR DELIVERY AND PENALTIES FOR NON-COMPLIANCE

Note: This list is not exhaustive. The Companies Act 2014 imposes many other obligations on companies.

#### OFFENCES

The Companies Act 2014 provides for a four-fold categorisation of offences into Categories 1 to 4. Throughout the Act, offences are, as created, categorised as attracting a particular category of penalty.

In Section 871, Chapter 7 of Part 14, those penalties are set out:

- Category 1 offence – conviction on indictment can result in a term of imprisonment of up to 10 years or a fine of up to €500,000 or both;
- Category 1 offence - summary conviction can result in a class A fine or imprisonment for a term not exceeding 12 months or both;
- Category 2 offence – conviction on indictment can result in a term of imprisonment of up to five years or a fine of up to €50,000 or both;
- Category 2 offence - summary conviction can result in a class A fine or imprisonment for a term not exceeding 12 months or both;
- Category 3 offence – a summary offence only, attracting a term of imprisonment of up to six months or a “Class A fine” (or both); and
- Category 4 offence – also a summary offence only, punishable by the imposition of a Class A fine. A “Class A fine” is a fine within the meaning of the Fines Act 2010 (i.e. a fine not exceeding €5,000).

Statutory Returns	To be delivered	Penalty for non-compliance
Form B1 - Annual Return (section 343 of 2014 Act)	Within 28 days of date to which return has been made up (which date may be no later than the ARD (section 343 of 2014 Act)	Category 3 Offence [section 343 (10)]
Financial statements (section 347)	To be delivered with annual return within nine months of financial year-end date	Category 3 Offence [section 347(5)]
Form B2 - Change in registered office [section 50]	Within 14 days of change [section 50(3)]	Category 4 Offence [section 50(6)]
Form B3 - Notice where register of members is kept (section 216(6)) N.B. not required if register is kept at registered office	forthwith	Category 3 Offence (section 217(3))
Form B4 - Notice of increase in authorised capital [section 93(3)]	Within 30 days of increase [section 93 (2)]	Category 3 Offence [section 93 (4)]

Form B5 – Return of allotments [s70(7)]	Within 30 days of the allotment [s70(7)]	Within 30 days of the allotment [s70(7)]
Form B7 – Notice of consolidation/division/cancellation/redemption, etc. of shares [s83(6)/s92]	Within 30 days of the event [s83/s92]	Category 3 Offence [s83/s92]
Form B10 - Notice of change in directors/secretaries [section 149(8)]	Within 14 days of the event [section 149(8)]	Category 3 Offence [section 150(4)]
Form B74 - Notice of disqualification in foreign jurisdiction - [s.150(2)/s.22(2)]	Submitted together with form B10 of form A1	
Form B74a - Notice of disqualification in foreign jurisdiction subsequent to appointment - [s.150(9)]	Within 3 months of the Commencement of the Act [s150(9)]/ Within 14 days of the event [s149(8)]	Category 3 Offence [s.150(4)]
Form E1 - Declaration of solvency [section 580(4)] [section 207]	Within 14 days of the winding up [s580(5)]/Within 21 after resolution (SAP) [s207(2)]	Ineffective declaration. Court Order is then required to rectify situation.
Form C1 - Mortgage/charge created by an Irish company	Within 21 days of the creation of the charge [s409(4)(a)]	Charge becomes void, the money secured shall immediately become payable [section 409]
		Charge becomes void, the money secured shall immediately become payable [s409]
Form C1b - Mortgage or Charge created by an Irish company (Two Stage Procedure) [s409(4)(b)]	Within 21 days of the submission of the form C1a [s409(4)(b)]	Charge becomes void, the money secured shall immediately become payable [s409]
Form C6 – Statutory declaration of full satisfaction of a charge [section 1416(4)]	When charge has been satisfied [section 416]	Property remains unchanged on register of charges
Form C7 – Statutory declaration of partial satisfaction of a charge [section 416(4)]	When partial satisfaction has been discharged on specific property [section 416]	Charge remains unchanged on register of charges
Form C10- Judgment Mortgage [s413(2)]	Within 21 days of receipt of document by creditor from PRA (Property Registration Authority). 3 days for receipt of document to creditor [s413(3) and (5)]	
Form E8 - Notice of appointment of receiver [section 436(1)]	Within seven days of appointment [section 436(1)]	Category 4 Offence [section 436(1)]
Form E10 - Statement of affairs [section 430(1)(b)]	Within two months of receipt of statement [section 430(1)(b)]	Category 4 Offence [section 430(10)]

Form E24 - Notice of petition to court [section 531(1)]	Within three days of presentation of petition [section 531(1)]	Category 4 Offence [section 531(8)]
Form H1 – Restoration to the register of company struck off [section 737(1)(b)]	Within 12 months of the company being struck off (section 737(1)(c))	Company remains dissolved
Form H2 – Notice of disclosure order [section 812(1)(b)]	Within seven days of the making of the disclosure order (section 812(2)(b))	
Form H3 – Notice of removal of auditor [section 385(2)(b)]	Within 14 days of the resolution removing the auditor (section 385(2)(b))	Category 3 Offence [section 385(3)]
Form H4 - Notification that proper books of account not kept (section 392(1)(b))	Within seven days of the serving of the notice on the company (section 392(1)(b))	Category 3 Offence [section 392(8)]
Form H5 - Return of company purchasing its own shares [section 116(1)]	Within 30 days of delivery of shares to company [section 116(1)]	Category 3 Offence [section 116(3)]
Forms G1/G1Q/G2 - Resolutions (special/ordinary) [section 198]	Within 15 days of the passing of the resolution	Category 4 Offence [section 198(5)]
Form F2 - Alteration in charter (memo & arts, etc.) (section 3)	Within 30 days [s1302(3)]	Category 3 Offence [s1302(9)/s1304(9)]
Form F3 – Return of changes in directors/secretary/persons authorised to represent the company authorised persons/ persons responsible for ensuring compliance with Act [s1302(3)/s1304(3)]	Within 30 days of change [s1302(3)]	Category 3 Offence [s1302(9)/s1304(9)]
Form F4 – Changes in address of place of business or branch [s1302(3)/s1304(3)]	Within 30 days of change [s1303(3)/s1305]	Category 3 Offence [s1302(9)/s1304(9)]
Form F7 - Financial Statement documents [s1303/s1305]	Within 30 days [s1303/s1305]	Category 3 Offence [s1303(5)/s1305(8)]
Form F12 - Application to register branch (EEA country) [section 1302(2)]	Within 30 days of establishment of branch [section 1302(2)]	Category 3 Offence [s1302(9)]
Form F13 - Application to register branch (non - EEA country) [section 1304(2)]	Within 30 days of establishment of branch [section 1304(2)]	Category 3 Offence [s1304(6)]
Form F14 - Notice re liquidation/insolvency/closure of branch [s1302(3)(e)/s1304(3)]	Within 30 days of occurrence [s1302(3)(e)/s1304(3)]	Category 3 Offence [s1302(9)/s1304(6)]

**AN OIFIG UM CHLÁRÚ CUIDEACHTAÍ**  
**Oifig Poiblí:** Teach Bloom, Plás Gloucester Íochtarach, BÁC 1  
**Fiosruithe:** Bóthar Uí Bhriain, Ceatharlach, R93 E920

**Lóghlao:** 1890 220 226  
**Fón:** +353 1 804 5200  
**Ríomhphost:** [info@cro.ie](mailto:info@cro.ie) **Láithreán:** [www.cro.ie](http://www.cro.ie)

**COMPANIES REGISTRATION OFFICE**  
**Public Office:** Bloom House, Gloucester Place Lower, Dublin 1  
**Postal Enquiries:** O'Brien Road, Carlow, R93 E920

**Lo Call:** 1890 220 226  
**Tel:** +353 1 804 5200  
**Email:** [info@cro.ie](mailto:info@cro.ie) **Web:** [www.cro.ie](http://www.cro.ie)