

Corporate Department

Companies (Miscellaneous Provisions) Act 2013

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A new companies Act

This new Companies Act largely reflects the economic and corporate climate which we in Ireland find ourselves in, with new provisions regarding our personal insolvency legislation, a new examinership option for small private companies and increased emphasis on corporate governance and compliance.

- All Irish companies which use e-filing at the Companies Office should familiarise themselves with the changes to e-filing;
- Small private companies should be aware that they can now apply to the Circuit Court to have an examiner appointed;
- All Irish companies should know that certain regulated authorities can disclose offences under or non-compliance with the Companies Acts to the Director of Corporate Enforcement;
- Changes to our personal insolvency legislation have been made for anyone interested in or having to avail of this legislation; and
- Statutory auditors and audit firms will need to be aware of certain changes which apply to them.

A brief summary:

1. New Examinership Provisions for Small Private Companies

Small private companies will be able to apply to the Circuit Court to have an examiner appointed instead of having to apply to the High Court with the intention of lowering costs and providing greater accessibility. (We have detailed the conditions relating to this process separately in Roisin Peart's article in [Corporate Recovery publications](#) section).

2. Changes to E-Filing of Accounts with Annual Returns

Changes have been made for more efficient electronic filing of accounts with the Companies Registration Office (CRO). The CRO is to issue guidelines on how the changes will work in practice.

3. Changes to the Personal Insolvency Act 2012 to improve debt relief notice process

A number of changes have been made. For example, in an effort to prevent abuse of the process, a new ground has been inserted for creditors and the Insolvency Service of Ireland to challenge the granting of a debt relief notice.

4. Changes to the Bankruptcy Act 1988 to reduce costs

The main changes relate to the fact that the notice of bankruptcy can now be published on the website of the Insolvency Service of Ireland; the notice must still be given in Iris Oifigiúil and in addition, either on the website of the Insolvency Service of Ireland (which is new) or in at least one daily newspaper in the State.

5. Disclosure of Information to the Director of Corporate Enforcement (DOCE) and new provisions regarding Designated Officers (in relation to the investigation of a company's affairs)
 - Certain regulated authorities, such as the Insolvency Service of Ireland/an officer of the Revenue Commissioners, may disclose to the DOCE information relating to offences under, or non-compliance with the Companies Acts.
 - If a designated officer named in a search warrant under section 20 of the Companies Act 1990 ceases to be an officer of the DOCE, or is otherwise unable to perform his functions, then another designated officer may apply to a judge of the District Court to be substituted for the original designated officer.
6. Levies on Statutory Auditors and Audit Firms and Investigations/Penalty Systems to be applied to Third Country Auditors/Audit Entities
 - The Irish Auditing and Accounting Supervisory Authority (IAASA) will be able to impose levies on statutory auditors and audit firms auditing public interest entities; the levies are to cover the cost of performing the quality assurance function which is to be transferred to IAASA.
 - The Minister for Jobs, Enterprise and Innovation may make regulations for the application of investigations and penalties on third-country auditors and third-country audit entities.

7. Citation

The Companies Acts citation will now read 'the Companies Acts 1963-2013'.

The changes at 3, 4, and 5 above came into force on 24 December 2013. The remaining changes will come into operation when a commencement order is made by the Minister.

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