

Corporate Department

Companies Bill Update

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Companies Bill

Largest piece of legislation in the history of the State moves forward

The Companies Bill 2012 completed its Committee Stage on 6 November 2013. 156 amendments were proposed, the majority were accepted. The Committee is expected to report to the Dáil in February 2014. The Bill then goes to the Dáil for debate. A copy of the Companies Bill 2012 as amended at Committee Stage is available from the Oireachtas website at <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2012/11612/b116a112d.pdf>

Key amendments accepted

Included in the changes that were accepted were:

- Where any person (including directors) are authorised generally to bind a company, notification should be made to the CRO;
- Where an existing private company limited by shares had an exemption from including the words “limited” or “teoranta” in a company’s name this shall only continue, in respect of a new model company limited by shares until the expiry of the transition period (18 months from commencement) and shall then cease. This is contrary to the position for a DAC;
- An unincorporated body of persons or a body corporate may not act as a director of a company;
- When Directors have to make a declaration under the Summary Approval Procedure that declaration has been limited with regard to the statement concerning the company’s ability to discharge its debts, this is now limited to a period of 12 months after the date of the relevant act, rather than being open-ended;
- If there is a failure to file a declaration in respect of a restricted activity under the Summary Approval Procedure, the court may now declare the activity valid if it is just and equitable to do so;
- The requirement to keep a register or other document at a place shall be deemed to be complied with if it is capable, by means of computer, of being reproduced and inspected in that form at that place;
- Compliance with the requirement to deliver certain documents to the Companies Registration Office will not be required in the case of mergers making use of the Summary Approval Procedure;
- In a winding -up, company books and papers must be retained for six (rather than three) years after the date of dissolution of the company;
- The minimum allotted share capital (in terms of nominal value required where a company wishes to appoint a restricted person as director) has been increased to €500,000 (from €350,000) in the case of a PLC, and to €100,000 (from €70,000) otherwise;

- A DAC that was exempted (as a private company limited by shares under existing legislation) from stating “limited” or “teoranta” in its name shall continue to be exempted from including the words “designated activity company” or equivalent. This is contrary to the new model company limited by shares;
- It has been made clear that an existing private company limited by guarantee and having a share capital will continue in existence and be deemed to be DAC limited by guarantee on commencement of the Act;
- A PLC may not dispense with the holding of an AGM unlike a private company limited by shares.

The above changes have also impacted on the numbering of Sections in the Bill.

Next Stage

The Committee is expected to report to the Dáil in February 2014. The Bill will then make its way to the Dáil for debate. Current timing for enactment is end of 2014.

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