



The CPD Fest 2020

Company Law & Co Sec

Presenter:

Des O'Neill, John Murphy & Sinead Gortland

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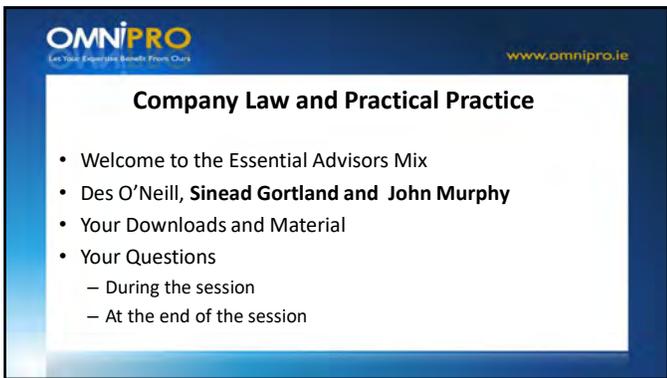
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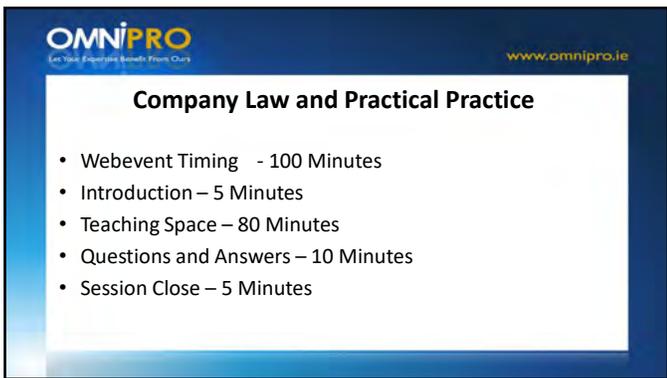




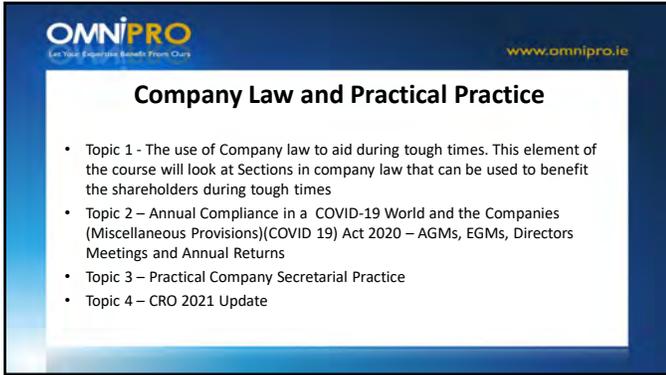
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Company Law and Practical Practice

- Topic 1 - The use of Company law to aid during tough times. This element of the course will look at Sections in company law that can be used to benefit the shareholders during tough times
- Topic 2 – Annual Compliance in a COVID-19 World and the Companies (Miscellaneous Provisions)(COVID 19) Act 2020 – AGMs, EGMs, Directors Meetings and Annual Returns
- Topic 3 – Practical Company Secretarial Practice
- Topic 4 – CRO 2021 Update

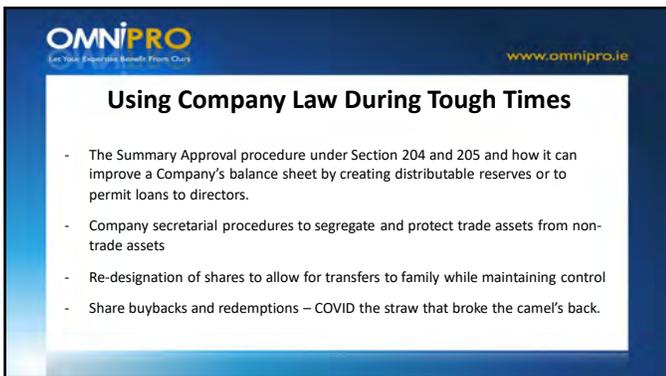
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Use of Company Law During Tough Times

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Using Company Law During Tough Times

- The Summary Approval procedure under Section 204 and 205 and how it can improve a Company's balance sheet by creating distributable reserves or to permit loans to directors.
- Company secretarial procedures to segregate and protect trade assets from non-trade assets
- Re-designation of shares to allow for transfers to family while maintaining control
- Share buybacks and redemptions – COVID the straw that broke the camel's back.

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Summary Approval Procedure

- What is it and the process -;
- Use of SAP 204 to create distributable reserves or repay capital – See SAP 2014 Step Plan page 16
- Use of SAP203 to provide funds to directors
- Use of SAP205 to allow distributable reserves in Hold Co.
- What are distributable reserves

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Segregation of Assets

- Asset protection at this time – See Corporate restructuring Checklist – Page 50
 - Risk – If Co. subsequently goes into CVL – question asked as to whether actions taken were to defraud creditors or take assets away from creditors
 - SAP possibly required – which is a director's declaration – can be held personally liable;
 - Fine line here
- How is this carried out –
 - Share for share – to protect cash, investment property
 - Share for undertaking transactions – transfer trade out etc.
 - The procedures from a Company Law perspective –

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Re-designation of Shares

- When is re-designation of shares applicable?
- Option:
 - Sub-divide or issue bonus shares
 - Redesignate the existing ordinary shares into Ordinary and A Ordinary shares
- Or
 - Redesignate existing shares into shares with just voting rights (A Class shares) & shares with all other rights (B Class Shares)

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Re-designation of Shares

- Redesignate existing shares into shares with just voting rights (A Class shares) & shares with all other rights (B Class Shares);
- Transfer B Class shares to Children
 - CGT – Retirement relief should apply as only requires that voting rights are held – As hold voting rights at time RR should apply
 - Entrepreneurial relief should also apply
 - CAT – Business asset relief – Co. is controlled by Family
 - SD – 1% on shares (maybe 7.5%)
- Value of voting shares is usually 15% of value of Co.
- Here parent still controls the company as they have voting rights
- Advantage over giving Parent golden share (as another option)
 - Allows BAR on a property held personally by parent to children in future as still control >50% of voting rights

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Re-designation of Shares

- Steps to re-designate shares
 - Directors board minute to consider the redesignation
 - Minutes note the proposed redesignation to various share classes and the rights to new shares
 - Proposes to recommend to members to approve the redesignation
 - Special resolution passed by members to approve the redesignation of the authorised share capital and the issued ordinary shares;
 - Not special resolution of members affected required
 - Special resolution to amend constitution;
 - Issue new Share certificate for newly re-designated shares;
 - Issue letter to members;
 - S.265 declarations from directors
 - Update the register

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Share Buybacks/Redemptions

- Significant volume at moment
- Remember Capital maintenance –
- Steps involved, See Share Buyback Helpsheets Guide Page 27:
 - Amend constitution
 - Approve redemption
 - Various minutes
 - Special resolution
 - Ordinary resolution
 - Filings with CRO
 - G1 if applicable, G2, B7, H5

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Annual Compliance - in a COVID-19 World and the Companies (Miscellaneous Provisions)(COVID 19) Act 2020 – AGMs, EGMs, Directors Meetings and Annual Returns

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Companies (Miscellaneous Provisions) (COVID-19) Act 2020

AGM Extension & General Meetings – see Covid AGM Guide page 58

- Hold AGM at any date in 2020 regardless of Deadlines
- General Meetings held electronically (wholly or partly)
 - Notices, see page 63
 - Provided all attendees have reasonable opportunity to participate
- Company may provide/facilitate for the members;
 - Electronic Communication Technology
 - Electronic Voting

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Annual General Meetings

See AGM Guide Page 77

- S.175
 - 15 months between AGMs – 9 months financial statements
 - 18 months from date of incorporation
- S.175 (3) – Written Resolution by ALL members
 - Acknowledge receipt of FS that would have been laid before that meeting
 - Resolve all such matters as would have been resolved (S.186 the business of the AGM)
 - Confirm no change in auditor
- S.180 - 184 Notices
- S.182 - Quorum
- S.188-189 Voting

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EGM/ Written Resolution

- EGM S.177, see page 84
 - Called Directors S.160(3)/ Members S.178(1)(2)
 - Notice = 7 days S.181(1)/ 21 days S.181(2)
 - S.191
 - Ordinary resolution – simple majority
 - Special resolution – not less than 75% of the votes cast
- Written Resolution
 - Unanimous S.183 & S.193
 - Majority S.194
- Removal Director/Auditor? EGM S.193

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Directors Meetings

See Page 91

- S.160(3) – Director or Secretary
- S.161 – Minutes/Minute Book
- S.160(2) - Voting
- S.166 – Minutes to be kept of meetings
 - Category 4 offence if not
 - Originals
- S.231 notification if interest in contract

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Annual Returns

- CRO Extension
 - ARD on or after 30/09/2020
 - All elements – filing, uploading accounts, signature page
 - By 26/02/2021
- Pre 30/09/2020 - Missed ARD?
 - Do not file
 - Section 343 Extension to District Court to Extend ARD
 - Audit & Late fees?

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Practical Company Secretarial Practice

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Voluntary Strike Off

- Assets and Liabilities €150
- CRO & Revenue Filings up to date
 - NB Annual Return
- Written confirmation from Revenue, Notice in paper
- 3 Months - 30 days
- 1- 2 months to dissolve

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'Administrative' Restorations

- Less than 12 months dissolved - See Page 156
- Form H1 & audited accounts
- Revenue compliance
- Form H1-OMC Property Mgt co.'s >1<6 yr BUT!!!
- Must comply with requirement to have 2 or 1 director(s)

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Officer/Member Court Restorations

- +1 year - High Court for restoration – See Page 156
- Officer or shareholder must make application
- Annual Returns, FS, Revenue
 - Late Fees €3,600 + €20 per B1
- Process
 - Affidavit & Letters No Objection
- What happens after 20 years?

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Transfer Shares on Death

- Testate vs Intestate – see Page 167
- Who is the personal representative
- Process
 - Role of the Secretary
 - Is stock transfer form required? Yes and No
 - Date of Transmission
- How to update the Register?

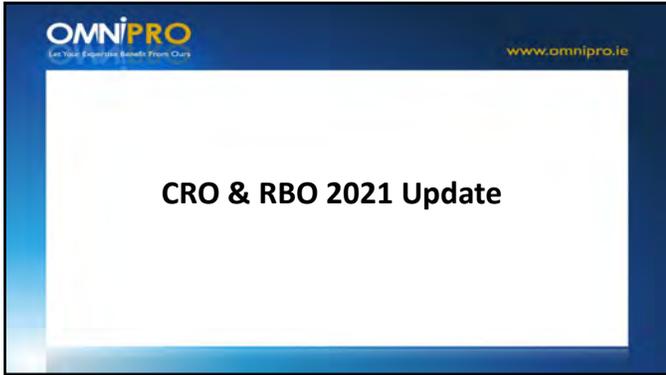
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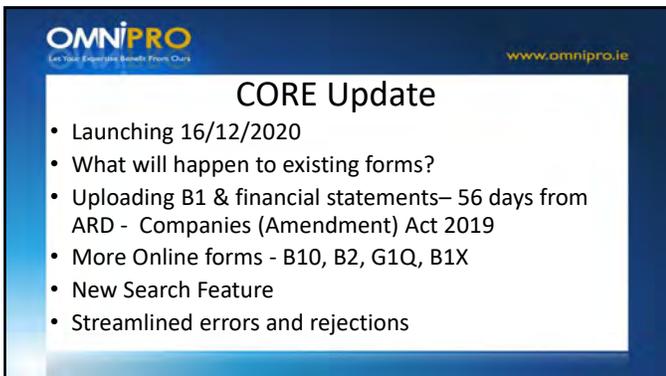
Beneficial Owners Register & The Company Registers

- MLD 4 – Beneficial Owners Register & SI 560 of 2016 – 15 November 2016 – See Page 170
- What is beneficial owner?
- Internal Register & RBO
- 14 days to file change in BO with RBO
- Failure to comply
- Discrepancy & Non Compliance 2020 Update

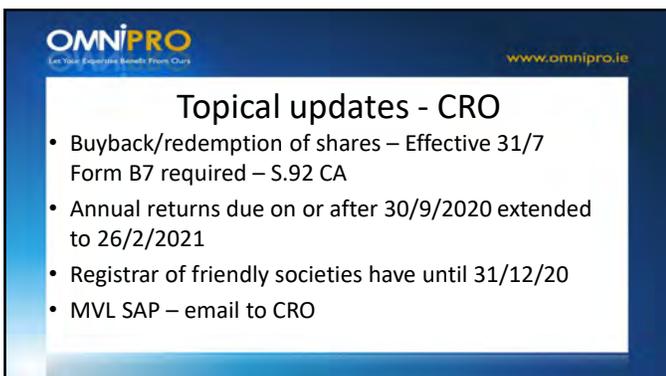
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CRO Annual Returns – B1X

- What is a B1X and when utilised, see page 197?
 - Filed when the original **Financial Statements** are defective
 - Can be amended by Supplementary Note
 - A revised Directors’ Report
 - Revised Financial Statements
- Manual Form
- Impact on audit report
- CRO changing view & returning docs so be aware

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How we can help you and your clients?

- Corporate restructuring – advisory, planning and execution
- RBOs, Registers, Share Transfers – maintenance, recreation and execution
- S.343s and saving the audit exemption. End to end application process
- Restorations, strike offs and Members Voluntary Liquidations
- Company Formations (New Platform January 2021)
- All you and your clients company secretarial transactions and support.
- Company secretarial advice with the benefit of Tax, Audit & Financial Reporting expertise

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Why OmniPro – One Firm One Solution

Our Why - Our core belief is simply this : Accountants can and do change lives. So we get up every morning to bring them the tools, advice and training so that they can create outstanding businesses for themselves and their clients too. In this way we change lives, communities and our world. We would live to do that together with you.

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Why OmniPro – One Firm One Solution

How We Do That –

- We do accountants
- We connect with accountants.
- We learn about accountants so we can understand them.
- We work out what accountants want and need
- We find the best solution for accountants in any given situation

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Why OmniPro – One Firm One Solution

What We Do We provide accountants with consulting, training and information products in the areas of;

- practice management, business development & marketing;
- company secretarial & taxation;
- audit & financial reporting;
- professional regulation and disciplinary defence.

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Summary Approval Requirements in Directors' Declaration

Requirements	Transaction/arrangement					
	Financial assistance or transaction with directors (S203)	Share Capital reduction (S204)	Capital Variation on reorganisation (S204)	Pre-acquisition reserves (S205)	Merger (S206)	Members' voluntary winding-up (S207)
Circumstances in which the transaction is to be entered into.	Yes	Yes	Yes	No	No	No
Nature of the transaction or arrangement	Yes	Yes	Yes	No	No	No
Person(s) to or for whom the transaction or arrangement is to be made	Yes	Yes	Yes	No	No	No
Purpose of transaction or arrangement	Yes	No	No	No	No	No
Nature of benefit to the company directly or indirectly	Yes	No	No	No	No	No
Declarants to state that they have made full enquiry into the affairs of the company and have formed an opinion that the company can pay its debts as they fall due for the following 12-month period	Yes	Yes	Yes	Yes but in addition if Co. were to make distribution within 2 months after making the declaration the Co could pay debts within 12 months of that date	Yes (For all companies involved)	Yes
Anticipated assets/liabilities statement of the company after the restricted activity is carried out	No	Yes	Yes	No	No	No
Total amount of assets/liabilities at the latest date not more than 3 months before the declaration	No	Yes	Yes	Yes	Yes	Yes
State the declarants do not have actual or constructive knowledge of any material liability occurring in 12 months after swearing declaration	No	Yes	Yes	No	No	No

State the amount of profits that will be deemed to be pre-acquisition profits which are now distributable	No	No	No	Yes	No	No
Report of independent person (person qualified to be a statutory auditor)	No	Yes	Yes	Yes	No	Yes

Statutory Auditor Report to the Directors of XY Limited pursuant to Section 208 of the Companies Act 2014.

We have examined the declaration made by **all/the majority** (delete the word all or the majority as applicable) of the directors of **XY Limited** on (Insert the date the declaration was signed by the directors here) for the purposes of Section 204 of the Companies Act 2014 in connection with the reduction of the company capital (within the meaning of Section 84 of the Companies Act 2014).

This report is made solely to the company's directors, in accordance with section 208 of the Companies Act 2014. Our work has been undertaken so we might state those matters we are required to state and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company for our work, for this report, or for the opinions we have formed.

Respective Responsibilities of Directors and Statutory Auditor

The directors are responsible for ensuring that the company keeps or causes to be kept adequate accounting records which correctly explain and record the transactions of the company and for the preparation of the information to be included in the declaration of the directors under Section 204 of Companies Act 2014. The directors are required by Section 204 of Companies Act 2014 to detail the following in the directors' declaration:

- the circumstances and nature of the transaction and the persons to or for whom the transaction is to be made;
- a statement of the total amount of the Company's assets and liabilities as at the latest practicable date before the date of making the Declaration which cannot be more than 3 months from the date on which the declaration is made;
- the anticipated total amount of the Company's assets and liabilities immediately after the transaction takes place;
- a statement that they have made a full inquiry into the affairs of the Company and that having done so they have formed the opinion that the Company after the Transaction takes place will be able to pay or discharge its debts and other liabilities identified in the statement of the Company's assets and liabilities as at [insert date] (in so far as not already paid or discharged) in full as they fall due during the period of 12 months after the date of Transaction; and
- a statement that the directors do not have actual or constructive notice that the Company will incur any material, extraordinary, future liability within 12 months after [insert date of Declaration].

Our responsibility as a person who is qualified at the time of the report to be appointed, or to continue to be appointed, the statutory auditor of the company is to form an opinion based on our examination of the directors' declaration, accounting records of **XY Limited** and the explanations and information provided to us by the directors and officers of the Company to state whether in our opinion the said directors' declaration is not unreasonable.

Inherent limitation

The opinion of the directors that the company will, after the transaction has taken place, be able to pay or discharge its debts and other liabilities in full as they fall due during the period of twelve months after (Insert date of the transaction) requires consideration of future events, however, as not all future events may or will occur as predicted with certainty there can be no guarantee that the company will be able to pay or discharge

its debts or other liabilities as at (Insert date of assets and liabilities done up to) as they fall due within a period not exceeding 12 months after (Insert date of the transaction).

Scope of our work

We planned and performed our work to obtain the information and explanations that we considered necessary to form our opinion. The procedures we performed were based on our professional judgement and included:

- an examination of the director’s declaration dated (Insert the date the declaration was signed by the directors here): and
- an examination of the evidence available to support the directors’ declaration that we considered appropriate including accounting records;
- obtaining written representations from the directors in respect of certain judgmental matters relating to the declaration; and
- ascertaining from the directors the steps taken by the directors to ensure the declaration complies with Section 204 of Companies Act 2014.

We believe the procedures we have performed are sufficient and appropriate to form our opinion. These procedures do not constitute an audit.

Opinion

In our opinion based on the information and explanations given to us, the directors’ declaration is not unreasonable.

AUDITORS NAME

For and on behalf of
 Firm name

<p>Chartered Chartered Accountants & Registered Auditors/Statutory Audit Firm, Accountants Row, Any County</p>	<p>ACCA Chartered Certified Accounts & Statutory Auditors/Statutory Auditor, Accountants Row, Any County</p>	<p>CPA Certified Public Accountants & Statutory Audit Firm, Accountants Row, Any County</p>
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DATE:

CompaniesAct2014.com

Summary Approval Procedure to Allow a Variation in Company Capital on Reorganization

SAP Step Plan

Part 3

Step plan/action help sheet

Name of procedure: Summary approval procedure to allow a variation in company capital on reorganisation (a share for undertaking swap or transfer of assets i.e. transfer from one company to another company in return for the shareholders in the first company receiving shares in the second mentioned company)

Sectional references: Section 91 of CA 2014 (Variation of company capital on reorganisation); Section 202 of CA 2014 (Summary Approval Procedure) & Section 204 of CA 2014 (declaration required for reduction of company capital or variation of company capital on reorganisation); Section 92 (Notice to registrar of certain alterations of share capital), Section 181 (notice of general meetings), Section 193 (unanimous written resolution) & Section 194 (majority written resolution) of CA 2014. Section 117 (9) of CA 2014 (Profits available for distribution). Section 119 CA 2014 (Distributions in kind – determination of amount).

Date:

Steps:

Step	Commentary	Legislative Reference	Done
1	Assess whether the transaction comes within the remit for the variation of the company's capital on reorganisation i.e. does the transaction result in the transfer of an undertaking/assets net of liabilities/asset net of liability to another company in return for the shareholders in the first mentioned company being issued shares in the second mentioned company in return for the transfer. The above would also apply where shares in a company were transferred as opposed to net assets as it would be seen as an undertaking. Note even where there is certain element of cash paid and shares issued it still comes within the S91 remit. Note the above also includes an assets/assets transferred in return for shares. If the answer to this question is yes, move to step 1A if not no further work is required.	S91 CA 2014	
1A	Does the company transferring the assets have sufficient distributable reserves to effect the transfer? Ensure the profit and loss reserves figure is analysed to ensure that anything included within this reserve is distributable (for example movement on the		

	<p>fair value of investment property may be included here which is not distributable unless the marketing has been done and a sale is imminent). If there is distributable reserves, given the judgement of interpretation is a SAP 204 still required even with distributable reserves.</p> <p>If you are happy to take the risk where distributable reserves exist, then no SAP 204 is required.</p> <p>If there are no distributable profits, does the company have significant called up share capital, if so there is a possibility to effect a SAP to approve the reduction of the share capital under S204 and S84 of CA 2014 as the amount of the reduction is deemed to be a realised profit. See a separate helpsheet to effect such a SAP.</p> <p>Even if the company does not have distributable reserves – the transfer can still be carried out as once the SAP 204 is done, and the declaration is given then the transaction can be effected.</p>		
1B	<p>Assess whether there are tax implications as a result of the proposed SAP to allow the variation in the company's share capital.</p> <p>There should be no tax implications of effecting the SAP to allow the transfer to take place. However once the SAP is approved there will be tax implications which will need to be considered as a result of the undertaking/assets being transferred. Before the SAP is completed a full an analysis of the tax consequences should be considered to see whether the cost would exceed the benefit of the transaction.</p> <p>Although the tax implications of a transfer of an undertaking is outside the scope of this checklist/step plan, below is a high level summary (further tax advice should be obtained before any transaction is affected. In addition a lot of company secretarial documentation will also be needed for such transactions to be effected):</p> <p>Possible implications where an undertaking/business is being transferred</p> <p>Where the transfer relates to a transfer of an undertaking (i.e. a business) there are special exemptions from capital gains tax and stamp duty available where consideration for the undertaking being transferred is the issuance of shares in the company receiving the undertaking to the shareholders of the company transferring the undertaking and the shareholders and percentage ownership of the transferring company prior to the transfer are the very same as the shareholders and there percentage shareholdings in the company receiving the undertaking after the shares have been issued (this requirements</p>		

	<p>applies to S587, S586, S615 TAC 1997 and Section 80 of Stamp Duty Consolidation Act 1999 detailed below). The transfer must be done for bona fide commercial reasons among other requirements which are beyond the scope of this step plan.</p> <p>Section 587 of TCA 1997 provides relief from any CGT on the shareholder of the company transferring the undertaking through a scheme of arrangement. In effect the base cost for future disposals will be apportioned between the two companies on a future disposal (the key requirement is that the consideration must only be shares). Where the transfer relates to the transfer of shares as opposed to the transfer of net assets, 587 also provides relief for such a transaction.</p> <p>Section 615 of TCA 1997 (or S617 where the transfer is between group companies) provides relief from CGT on the company transferring the trade (and base costs transfer) to ensure that no CGT is payable.</p> <p>Section 80 of Stamp Duty Consolidation Act 1999 provides a relief from stamp duty for the receiving company where the transfer is a transfer of an undertaking/business as a result of a reconstruction, carried out for bona fide commercial reasons and where the transfer relates to shares it must acquire more than 90% of the shares plus other conditions which are beyond the scope of this checklist.</p> <p>In the above situation it may also be possible to transfer assets at tax written down value and stock at book value if a joint election is made such that there are no adverse corporation tax consequences as a result of the transfer. In addition it is unlikely VAT will arise where both companies are vat registered before the transfer where the transfer relates to a transfer of a business. However where freehold property is transferred a capital goods record should be transferred to the transferee. No vat will arise on a transfer of shares.</p> <p>Possible implications where assets are transferred as opposed to an undertaking being transferred or where an undertaking is transferred but all of the conditions for the relief have not been met</p> <p>Where assets are transferred which are chargeable to CGT as opposed to an undertaking as above; from a CGT perspective unless the transfer is between companies which are owned 75% or more within a group (in which case they may be exempt from CGT under Section 617 TCA 1997), then consideration should be given to the CGT implications of the proposed transfer.</p> <p>Where assets are transferred which are chargeable to stamp duty as opposed to an undertaking as above; from a stamp duty perspective unless the transfer is between companies which are</p>		
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	<p>owned 90% or more of within a group (in which case they may be exempt from stamp duty under Section 79 of the Stamp Duty Consolidations Act 1999 assuming certain conditions are met these conditions are outside the scope of this step plan), then consideration should be given to the stamp duty costs of the proposed transfer.</p> <p>Where assets are transferred as opposed to an undertaking, then depending on the type of asset transferring consideration should be given to the corporation tax implication of the transfer as well as the VAT implications of the transfer.</p>		
1C	<p>Draft of a schedule of:</p> <ul style="list-style-type: none"> - the anticipated total amount of the company's assets and liabilities immediately after the restricted activity taking place. - the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration (management accounts or financial statements). 	S204 2014	ca
2	<p>Arrange to hold a board meeting no longer than 12 months from the carrying out of the act to vary the company's capital. At this meeting:</p>	S202(1) 2014	CA
2a	<p>- approve the variation of the company's capital on reorganisation and the summary approval procedure</p>	S202(1) 2014	CA
2b	<p>- the majority of directors or all of the directors agree to recommend to the members to allow the company to vary the company capital and the reduction in capital as a result of the transaction to be applied to profit and loss reserves (distributable reserves) and a special resolution be passed to permit this activity.</p>	S201 & S202(1) 2014	CA
2c	<p>At this meeting or a meeting held not earlier than 30 days before the approval of the members by special resolution (where an initial meeting discussed in step 2 has been held after this 30 day period), the directors should make a declaration in writing declaring that having made full enquiry, the company will be able to pay its debts as they fall due for the 12 months period following the date the restricted activity was carried out (Section 201 & 202 CA 2014). See step 4 for further items to be included in the directors' declaration.</p> <p>The special resolution can be in writing under Section 193 (unanimous resolution)/ Section 194 (majority resolution) or passed at an extraordinary general meeting.</p> <p>Where the resolution is passed in writing then the directors' declaration must be attached to the written resolution.</p>	S202(6) 2014	CA
3	<p>Prepare a statement of assets and liabilities of the company up to a period not exceeding 3 months from the date of making the directors declaration.</p>	S204(1)(d)	

3a	Prepare a statement of the expected assets and liabilities of the company after the proposed transaction has taken place	S204(1)€	
3b	Obtain a report prepared by a person who is qualified to be the independent auditor of the company stating in that experts opinion, the declaration (as detailed in step 4) made by the directors is not unreasonable	S208 CA 2014	
4	The minutes of the board meeting in step 2 should detail:	Section 201, 202 & 204 of CA 2014	
4a	the name of the company and the company number		
4b	the date, location and time of the meeting and the members present at the meeting		
4c	details of who was appointed chairman of the meeting		
4d	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014; Note that notwithstanding the disclosures, was pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest. It should also state whether a quorum was present if there is a minimum requirement stated in the constitution.	S231, 228 & 229 of CA 2014 not in legislation above	
4e	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director present holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S137 CA 2014	
4f	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a directors as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	Section 819, 839, 840 841, 842 and 828 of CA 2014.	
4g	Include a paragraph for 'Background' providing details of the proposed variation of capital as a result of the transfer of an asset/undertaking to another company in return for the issuance of shares to the shareholders of this company to be entered into by the company giving details of the reasons why it is proposed and the fact that a summary approval procedure is required to be implemented in order to legitimise the transaction.		
4h	Include a paragraph for 'Purpose of meeting' providing exact details for the reason why the meeting was held e.g. to consider and if thought fit to approve the variation of the Company's capital on reorganisation resolving that the reduction in the capital be applied to the profit and loss reserves/distributable reserves of the company and provide a declaration of directors as required by Section 202 & 204 of CA 2014 in order to allow the	S202 & 204 CA 2014	

	capital variation to proceed and to recommend to the shareholders to pass a special resolution to effect the transaction.		
4i	<p>Provide details of the requirements of the summary approval procedure (requirement for a special resolution) with reference to Section 91 and what is to be included in the directors declaration under Section 204 in the minutes (note the directors declaration is filed on Form SAP-204). That being:</p> <p>1) The majority of directors must make a declaration stating:</p> <ul style="list-style-type: none"> - 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; - that the declarants have made full inquiry into the affairs of the Company and that, having done so, they have formed the opinion that the Company, after having carried out the transaction to reduce the capital of the company, will be able to pay its debts in full as they become due during the period of 12 months after the date of the relevant act; - 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 making of the declaration. - the anticipated total amount of the company's assets and liabilities immediately after the restricted activity having taken place. - the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration <p>2) that a special resolution is required to be passed by the shareholders approving the variation in capital.</p> <p>3) that the declaration of the directors is accompanied by a report prepared by a person who is qualified to be the independent auditor of the company stating in that experts opinion, the declaration made by the directors is not unreasonable</p>	S91, S204(1) & 208 CA 2014	
4j	Detail the fact that the directors were advised of the serious nature of the Section 92 declaration and the penalties that the directors were liable for if the directors make the declaration without unreasonable grounds for doing so (i.e. they may be liable for all liabilities that arise within the 12 month period).	S210 CA 2014	

4k	Detail the fact that the directors took account of the financial position and liabilities of the company (including prospective and contingent) and have assessed the financial position of the company before the transaction takes place and the expected financial position after the transaction takes place. Include the fact that the directors were presented with the balance sheet before and the expected balance sheet after (as prepared at step 3 above) during the meeting as part of this process.	S204(1) CA 2014	
4l	Detail the fact that the directors reviewed the latest set of management accounts and confirmed there was adequate profit and loss reserves/distributable profits to effect the reduction to be applied to reserves.	S119 CA 2014	
4m	Detail the transaction itself (i.e. transfer of undertaking/asset etc), the parties to the transaction (i.e. the two companies involved and the shareholders) and provide details of net book value of the net assets (assets less liabilities) to be transferred and hence the total amount of the reduction in the net assets of the company to be applied to the profit and loss reserves of the company. Detail the fact that such a transaction is not permitted under Section 92 unless Section 204 of CA 2014, SAP approval procedure is applied.		
4n	Draft up the directors declaration to be signed by all or a majority of directors which addresses (note the directors declaration can be prepared in the form SAP-204 which is the form filed with the CRO):	S204(1) CA 2014	
	- the circumstances in which the transaction or arrangement is to be entered into;	S204(1)(a) CA 2014	
	- the nature of the transaction or arrangement;	S204(1)(b) CA 2014	
	- the person or persons to or for whom the transaction or arrangement is to be made;	S204(1)(c) CA 2014	
	- that the declarants have made full inquiry into the affairs of the Company and that, having done so, they have formed the opinion that the Company, after having carried out the transaction to reduce the capital of the company, will be able to pay its debts and other liabilities in full as they become due during the period of 12 months after the date of the relevant act;	S204(1)(f) CA 2014	
	- 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 making of the declaration.	S204(1)(g) CA 2014	
	- the anticipated total amount of the company's assets and liabilities immediately after the restricted activity having taken place.	S204(1)(e) CA 2014	
	- the total amount of the company's assets and liabilities of the company at the latest date not more than 3 months before the date of the declaration	S204(1)(d) CA 2014	

4o	Detail the acknowledgement of the directors of the obligations imposed under Section 204 and they acknowledge that the draft declaration was true and correct.	S204 2014	CA	
4p	Detail the fact that the directors' declaration was produced to the directors for their review and after consideration it was signed by all or a majority of directors on the basis that all the conditions required by Section 204 as detailed above had been met, they were happy to proceed to deem the Section 204 Declaration executed. Have all the directors making the declaration sign the Form SAP-204 .	S204(1) 2014	CA	
4q	Detail the wording of the special resolution to allow the variation of the company's capital on reorganisation which will be provided to the shareholders for approval. This should include the fact that the entry into the transfer agreement as referred to in the directors' declaration attached to the resolution constitutes a variation of company's capital on reorganisation within the meaning Section 91 of CA 2014 and the fact that it was approved.	S202 2014	CA	
4r	Recommend that the directors' declaration and the special resolution when passed be filed with the CRO within 21 days of the variation of the capital.	S204(4) 2014	CA	
4s	Detail the fact that it was resolved that an extraordinary general meeting be held to allow the shareholders to vote on the special resolution and that the required notice be given to all members together with a copy of the signed directors' declaration which includes the independent persons report. THIS STEP IS ONLY PERFORMED WHERE A WRITTEN RESOLUTION IS NOT BEING PASSED I.E. WHERE A MEETING IS HELD.	S92 2014	CA	
4t	Unanimously agree that the directors be given authority to sign the transfer agreement (where one exists)			
4u	Request the secretary or director to obtain the independent persons report to confirm the declaration which was just passed was 'not considered unreasonable' in order to satisfy the requirements of Section 208	S208 2014	CA	
4v	Declare the meeting closed			
4w	Have the chairperson sign and date the board minute and insert it into the minute book of the company.			
5	Draft the written special resolution based on the resolutions detailed in the board meeting above and reference the fact that the directors resolution is attached to the written resolution itself (which includes the independent persons report) and have this resolution signed by all members entitled to vote where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the top specifically states that they are special resolutions and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. Where a written majority resolution has been passed ensure this resolution is signed by the required majority of members and it	S193 2014 S194 2014	CA CA	

	refers to S194 with wording similar to the aforementioned. Ensure where a majority written resolution is to be passed that the required notice mentioned in step 5a below is dealt with.		
5a	<p>Where a written resolution is not utilised there is no need for the resolution to be signed. In addition it should not refer to Section 193/194 in any way and the wording in relation to it being valid and effective as if a general meeting had been convened because effectively an extraordinary meeting has to be convened for a resolution that is not written.</p> <p>Ensure all members entitled to attend and vote at the meeting/on the written resolution have been informed of the meeting within the required notice period (this is also applicable for a majority written resolution). The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.</p> <p>This notice should include: the date, time, location of the meeting, give details of the special resolutions to be considered for approval, the fact that a proxy can be utilised which does not have to be a member and the date by which the member must notify the company of a proxy being used. A consent to short notice should be signed by all members including the auditor (if applicable) where less than the statutory notice is provided which is a signed confirmation from all parties that they consent to the short notice. A copy of the directors' declaration should be attached to the notice of the meeting.</p>	S181 CA 2014	
6	<p>Where an extraordinary meeting is held (as opposed to a written resolution), draft the minutes of the extraordinary general meeting with the usual requirements (as per steps 4(a)-4(c)) and detail the approval of the special resolution to approve the reduction of the variation of the company's capital with the wording as per step 4q. Where consent to short notice was given note this in the minutes to the meeting.</p> <p>Ensure the minutes are signed by the chairperson.</p>	S202 CA 2014	
7	<p>Hold a board meeting to advise that the shareholders had passed the resolutions at the extraordinary general meeting held earlier in the day and to instruct the secretary to file the Form G1 together with the directors' declaration within 21 days to the CRO.</p> <p>Document in the board minutes the aforementioned facts in addition to the standard confirmations detailed in step 4(a) to 4(f) above.</p>	Section 201(3) & 204(2) of CA 2014	

8	Ensure a copy of the declaration/SAP-204 is delivered to the CRO not later than 21 days after the date on which the restricted activity commenced. If it is not submitted within this period it will invalidate the summary approval process	Section 201(3) of CA 2014	
9	Pass an ordinary resolution approving that following the SAP/reorganisation that the Company's reserves shall be reduced by an amount equivalent to the value of the Undertaking transferred (and state amount). Where written resolution – follow the facts as above.	S.91(5) CA 2014	
10	File the Form G1 with the CRO ensuring that the director's declaration is attached to the G1 (ideally within 15 days of passing the special resolution).	S191 CA 2014	
10a	In the effective date on the G1, date this the date the special resolution was dated. Include the company number and Company name on page one of Form G1		
10b	In the resolution details section of the Form G1, type the resolutions passed into the resolution text area on the form G1 which is an exact replicate of the resolution prepared at step 6 or 7 above or alternatively attach a copy of the resolution prepared and state 'see resolution attached'. Also attach the directors declaration (which includes the independent persons report)		
10c	In the resolution passed section of the Form G1, insert 'In writing' if done by a written resolution as opposed to by a formal meeting. If by meeting select the general meeting option.		
10d	In the writing type section of the Form G1, insert 'Pursuant to section 193(1) (unanimous written resolution) if it is done by written resolution under S193 CA 2014. If it is done by written majority resolution (S194 CA2014) insert 'PURSUANT TO Section 194' If it is passed by meeting then insert 'extraordinary general meeting'.		
10e	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No' where it is being filed on core		
10f	Complete the information of the person/director that will sign the signature page at 'particulars of persons verifying the contents of the form' of the Form G1 on CORE or if done by hard copy in the certification section of the form		
10g	Include details of the agent presenting/filing the From G1 in the detail of presenter section of the Form G1		
10k	File the Form G1 on CORE or send to the CRO together with the directors' declaration where a hard copy is filed out		
10l	Arrange for a director to sign the electronic G1 signature page once filed on core (where core is used) and send this to the CRO with the directors' declaration.		
11	File G1 – ordinary resolution that the Company's reserves shall be reduced by an amount equivalent to the value of the Undertaking transferred – follow guidance in step 10 above		

In my professional opinion in my capacity as the professional advisor, the summary approval procedure and related company secretarial documentation comply with the Company Law requirements.

Signed:

Date:

Linked documents

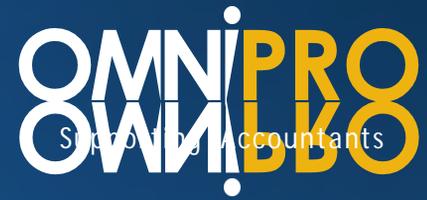
None

Forms

Form G1

Form B7

Form SAP-204 – director’s declaration



CompaniesAct2014.com

Share Buybacks

Quick Guide

Step Plan / Action Help Sheet

Name of procedure: Share buyback/redemption

Sectional references – Section 105 & section 106 (acquisition of own shares), Section 110 (incidental costs on acquisition of own shares), Section 83 (Variation of share capital – redemption/sub-division of shares), Section 92 (Notice to registrar of certain alterations of share capital), Section 181 (notice of general meetings), Section 193 (unanimous written resolution) & Section 194 (majority written resolution) of CA 2014

Step	Commentary	Legislative Reference	Done
1	Assess whether the company has distributable reserves to allow the share buyback or alternatively is the entity going to receive proceeds from the fresh issue of shares to fund the buyback. If the answer to both of the aforementioned questions is no then the share buyback/redemption cannot proceed.	S.105(1) CA 2014	
2	Is the amount expected to be paid to the shareholder on redemption/buyback to exceed the amount originally subscribed for those shares? If not then there will be no taxation implications of the transaction for the person who the shares are expected to be acquired from. If it is then review step 3 below.	S.176 – 186 TCA 1997	
3a	Where the amount expected to be paid by the company is expected to exceed the amount originally subscribed for those shares, then is the person who the shares is expected to be acquired from expecting to have the proceeds treated as a capital gain. If the conditions of Section 176-186 of TCA 1997 are not met then the amount by which the amount paid exceeds the amounts subscribed is subject to income tax and the company is obliged to withhold 25% dividend withholding tax. See below all the conditions required to be met in order for the capital gains tax treatment to apply. All of the conditions from (a) to (g) must be met. Note however, where the redemption is from a share for share/undertaking swap whereby new shares were issued in return for the provision of trade assets or shares then the aforementioned rules do not apply as this is seen as new consideration (Assuming the redemption amount is not in excess of the amount originally subscribed for in non-cash form).	S.176 – 186 TCA 1997	
3b	The shares must have been owned by the shareholder for a period of at least 5 years.		
3c	The shareholders interest in the company immediately after the purchase/redemption must be substantially reduced (generally this means that the shareholders interest in the company in all respects must be reduced by at least 25% - i.e. entitlement to dividends and assets on a winding up are reduced by at least 25%).		
3d	The company must be an unquoted trading company.		

3e	The redemption/buyback of shares is made wholly or mainly for the purpose of benefiting the trade carried on by the company. If in doubt in relation to whether it benefits the trade an advance opinion can be obtained from revenue. Revenue have confirmed in Tax Part 06-06-01 Tax manual or E-brief 79/18, the below instances would benefit the trade:		
3e(i)	There is a disagreement between the shareholders over the management of the company and that disagreement is having or		

	is expected to have an adverse effect on the company's trade and where the effect of the transaction is to remove the dissenting shareholder.		
3e (ii)	<p>ii. The purpose is to ensure that an unwilling shareholder who wishes to end his/her association with the company does not sell the shares to someone who might not be acceptable to the other shareholders. Examples of this would include:</p> <ol style="list-style-type: none"> 1. An outside shareholder who has provided equity finance and wishes to withdraw that finance; 2. A controlling shareholder who is retiring as a director and wishes to make way for new management; 3. Personal representatives of a deceased shareholder where they wish to realise the value of the shares 4. A legatee of a deceased shareholder, where she/he does not wish to hold shares in the company. <p>The buyback should not place huge financial strain on the company as if this arises it is unlikely that the transaction is benefiting the trade.</p>		
3f	The redemption does not form part of a scheme or arrangement, the main purpose or one of the main purposes of which is to enable the owner of the shares to share in the profits of the company without receiving a dividend.		
	The shareholder must no longer be connected with the company (after the buyback the shareholder and his/her associates must own less than 30% of the capital (of share capital and loan capital) of the company. An associate includes a spouse and minor children. Where points 1 to 4 in step 3(e) above apply, revenue have stated that they would expect the party from which the shares were acquired from would no longer have any interest in or association with the company other than; 1) where a controlling shareholder in a family company is selling his/her shares to allow control to pass to his/her children but remains on as a director for a specified period purely because his/her immediate departure from the company at that time would otherwise have a negative impact on the company's business; or 2) for sentimental reasons a retiring director of a company wishes to retain a small shareholding in the company.		
4	If there is doubt as to whether the buyback benefits the trade seek advance revenue approval prior to undertaking the transaction.		
5	Perform a valuation of the company so that market price is paid for the shares (it would be good practice to do up a formal valuation as revenue are likely to review the transaction in the future).		

6	<p>Where there is only one shareholder or two shareholders and the two shareholders shares are being acquired by the company ensure that shares are issued to at least one other shareholder prior to the buyback (consideration should be given to the tax implications of issuing shares where the shares are issued for below market price). In order to reduce the price per share consideration could be given to sub-dividing the shares currently in issue or issuing bonus shares.</p> <p>Alternatively shares could be transferred to another party by the shareholders who are having the shares bought back/redeemed rather than further shares being issued (e.g. non-minor children). The tax consequences of this transfer should also be considered.</p>		
	Procedures to be performed where a redemption is used to effect the acquisition of the company's own shares (if the acquisition is to be completed by purchase of own shares as opposed to redemption please proceeds to step 10)		
7	Assess if the shares which are the subject of the buyback/redemption are currently redeemable. If the shares are currently redeemable move to step 9	S.83 (3) CA 2014	
8	If the shares are not currently redeemable pass a special resolution by performing the following steps (Section 83(3)):	S.83(3), S.193(1), S.194, S.181, S.231, CA 2014	
8a	Where the resolution is by way of a unanimous written resolution passed in writing in accordance with Section 193(1), no set period of notice is required. Instead this written resolution should be signed by all members entitled to vote as detailed in point (f) below.	S.193 (1) CA2014	
8b	Where a unanimous written resolution is not utilised and instead the resolution is to be passed by way of votes at a meeting or alternatively by majority written resolution (Section 194 CA 2014), ensure all members entitled to attend and vote at the meeting/on the written majority resolution have been informed of the meeting within the required notice period. The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members/shareholders and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.	S181 & 194 CA 2014	
8c	Hold a board meeting of directors whereby they decide to recommend to the members to approve by special resolution:		
8c (i)	the re-designation and conversion of the ordinary/preference shares in question detailing the number, nominal value and class of shares being re-designated and converted; and		

8c (ii)	the alteration of the company's existing Constitution/Memorandum & Articles of Association to alter the share capital clause for the existing shares and the new redeemable shares and amend the articles to permit the redemption and buyback of shares including the rights attached to the redeemable shares;		
8c (iii)	the adoption of the new constitution for the amendments referred to in step 8(c)(i) and 8(c)(ii) above		
8d	Ensure the minute details:		
8d (i)	the name of the company		
8d (ii)	the date, location and time of the meeting and the members present at the meeting		
8d (iii)	details of who was appointed chairman of the meeting		
8d (iv)	the exact wording of the resolutions mentioned in step 8(c)(i)(ii)(iii) which can be included in the written resolution in step 8(f) below;		
8d (v)	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014 and that this should be noted in the statutory register; Note that notwithstanding the disclosures, the directors were pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest. Confirm the required quorum is present if the Constriction details this	S.231 CA2014	
8d (vi)	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director presently holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S.137, S.228, S.229 CA2014	
8d (vii)	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a director as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	S.819,839, 840,841, 842, 828 CA2014	
8d (viii)	the fact that the secretary/director was instructed to: 1. arrange for the passing of the necessary resolutions of the members pursuant to section 193(1) (where unanimous written resolution is obtained) or Section 194 (where majority written resolution is obtained) of CA 2014 and file the Form G1 or where any extraordinary general meeting is utilised request that the notice be given to the shareholders of this meeting together with the proposed resolutions to be passed; 2. cancel the share certificate previously issued to the member for which the shares were converted and the reissuance of the new share certificate to that shareholder and that the share certificate be signed by two directors or one director and secretary and the common seal be affixed thereto. The Register of Members should also be updated for this change.	S.193 (1), S.194 CA2014	

8e	If approved ensure the minutes are signed and dated by the chairperson and inserted into the minute book of the company.		
8f (i)	Draft the written resolution based on the resolutions discussed in the board meeting above at the step 8(i)(ii)(iii) and have this resolution signed by all members entitled to vote at the meeting where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the top specifically states that they are special resolutions and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. Where a written majority resolution has been passed ensure this resolution is signed by the required majority of members and it refers to S194 with wording similar to the aforementioned. If a written majority resolution is used then give the required notice detailed below	S.193 (1) and S.194 CA2014	
8f (ii)	Where a written resolution is not utilised there is no need for the resolution to be signed. In addition it should not refer to Section 193/194 in any way and nor should it contain the wording in relation to it being valid and effective as if a general meeting had been convened because effectively a meeting has to be convened for a resolution that is not written. Ensure all members entitled to attend and vote at the meeting/on the written majority resolution have been informed of the meeting within the required notice period (this is also applicable for a majority written resolution). The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.	S.193, S194, S.181 CA2014	
8f(iii)	Where an extraordinary meeting is held (as opposed to a written resolution), draft the minutes of the extraordinary general meeting with the usual requirements as detailed in step 8d(i) to 8(d)(iii) in addition to detailing the approval by the members at that meeting of the special resolution including the exact resolution passed as detailed in step 8(i)(ii)(iii). Also ensure it refers to all members giving the consent to short notice for the meeting if this short notice period was utilised. Ensure the minutes are signed by the chairperson.		
8g	Obtain a letter from the shareholders whose shares are to be redeemed that they are agreeable to the redemption (if unanimous written resolution is not obtained but still a special resolution is passed – not required where unanimous resolution is obtained).		
8h	Issue the share certificate to the shareholders with the new redeemable shares and cancel the old shares. Obtain the old share certificate from the shareholder.		

8i	Draft Form G1 (notice of resolution) to notify the CRO of the special resolution passed to amend the Constitution/Memorandum & Articles of Association and then:	S.191 CA 2014	
8i (i)	in the effective date on the G1, date this the date the written resolution was dated in step 8(f) above. Include the company number and Company name on page one of Form G1		
8i (ii)	In the resolution category section select 'shares'		
8i (iii)	In the resolution details section of the Form G1, insert 'other'		
8i (iv)	In the resolution type and the resolution filled category, insert 'Special Resolution' and 'G1 special resolution – Alteration of Constitution' respectively		
8i (v)	type the resolutions passed into the resolution text area on the form G1 which is an exact replicate of the resolution prepared at step 8(f) above or alternatively attach a copy of the resolution prepared in step 8(f) above and state 'see resolution attached'.		
8i (vi)	In the resolution passed section of the Form G1, insert 'In writing' or if by majority written resolution select that option. Alternatively if it is done by meeting select the general meeting option as appropriate.		
8i (vii)	In the writing type section of the Form G1, insert 'Pursuant to section 193(1) (unanimous written resolution) or is if done by majority resolution insert 'Pursuant to S194'. If done by meeting select the extraordinary general meeting option.		
8i (viii)	Attach the updated constitution to the Form G1.		
8i (ix)	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No' (applicable where form is being filed on CORE)		
8i (x)	Complete the information of the person/director that will sign the signature page at step 8(xiii) or 8(xii) below in the remaining part of the section "particulars of persons verifying the contents of the form' of the Form G1		
8i (xi)	Include details of the agent presenting/filing the From G1 in the detail of presenter section of the Form G1		
8i (xii)	File the Form G1 on CORE or send the completed Form G1 together with fee and amended constitution to the CRO		
8i (xiii)	Arrange for a director to sign the electronic G1 signature page once filed on core and send this to the CRO.		
9	Redeem members shares on the same date but no earlier than the date of conversion above	S.92, S.193, S.194, S.181, S.105, S.231 CA 2014	
9a	Hold a board of directors meeting where it is agreed to recommend to the members to passing of an ordinary resolution for the redemption of the members shares and the subsequent	S.92, S.193, S.194,	

	cancellation of those shares (Section 92/193 or 194 or 181) subject to conditions contained in the Constitution. See step 9(d) for the minutes to be included in relation to the documentation of this meeting	S.181 CA 2014	
9b	Where the resolution is by way of a unanimous written resolution passed in writing in accordance with Section 193(1), no set period of notice is required. Instead this resolution should be signed by all members entitled to vote.	S.193 (1) CA2014	
9c	Where a unanimous written resolution is not utilised and instead a majority written resolution is utilised or the resolution is to be passed by way of votes at an extraordinary general meeting ensure all members entitled to attend/vote at the meeting have been informed of the meeting within the required notice period. The required notice period is not less than 7 clear day's notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.	S.181 CA2014	
9d	Hold a board of directors meeting to inform the board of the fact that the members had approved the following and document the ratification of this decision by the board of directors:		
9d (i)	the redemption of a set number of redeemable shares of a particular class, detailing the nominal value per share including the name of the shareholder/member; and		
9d (ii)	the cancellation of those shares once redeemed.		
9e	ensure the minute details:		
9e (i)	the name of the company		
9e (ii)	the date, location and time of the meeting and the members present at the meeting		
9e (iii)	details of who was appointed chairperson of the meeting		
9e (iv)	provide details of the redemption of a set number of redeemable shares of a particular class detailing the nominal value per share for a set market price from a member to include detailing the premium given on redemption of each share and the total amount given for the redemption.		
9e (v)	specifically state that the redemption of the shares mentioned in (i) above are being redeemed in accordance with the Articles of Association/constitution of the company and Section 105 of the Companies Act 2014 to include detailing how the redemption is being financed e.g. by way of distributable profits of the company or by way of a fresh issue of shares.	S.105 CA2014	

9e (vi)	Where the redemption is funded out of distributable profits reference should be made to the latest management accounts confirming there were sufficient distributable profits to allow for the redemption.		
9e (vi)	Where the redemption is to be funded specifically from the proceeds of a fresh issue of shares, this fact should be stated. A separate resolution should be passed to approve the allotment of the shares and the minutes of the meeting for that allotment should specifically state that the shares were allotted for the purposes of redeeming shares. See separate help sheet on the allotment of shares.		
9e (vii)	Specifically detail the shareholders/members from whom the shares are redeemed, the number of shares being redeemed and the amount per share.		
9e (viii)	the cancellation of the shares on redemption		
9e (ix)	and the need for the issuance of the notice of redemption to the member		
9e (x)	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014; Note that notwithstanding the disclosures, the directors were pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest. Ensure the required quorum for the meeting is present where this is stated in the constitution.	S.231 (CA 2014	
9e (xi)	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director present holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S. 7, S.228 and S.229 CA 2014	
9e (xii)	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a director as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	S.819, S.839, S.840, S.841, S.841, S.828 CA2014	
9e (xiii)	the fact that the secretary/director was instructed/authorised to: 1. issue the appropriate redemption notice to the member whose shares are to be redeemed detailing the number of shares being redeemed and the amount they are redeemed for.	S.194, S181 of CA2014	

	<p>2. arrange for the passing of the necessary resolutions of the members pursuant to section 193(1) or S194 of CA 2014 and file the Form G2 and Form B7 once the transaction has completed; Where a majority written resolution under S194 CA 2014 or the resolution is to be passed by extraordinary general meeting advise the secretary to provide the members with the required statutory notice of the meeting together with the proposed resolutions to be passed.</p> <p>3. cancel the share certificate previously issued to the member for which the shares were redeemed and update the register of members to reflect this cancellation.</p>		
9f	If approved ensure the minutes in step 9(e) are signed and dated by the chairperson and inserted into the minute book of the company.		
9g	Issue notice to the member concerned of the Company's intention to redeem the shares held in that members name. Ensure this letter:		
9g (i)	is issued on Company headed paper with the registered office		
9g (ii)	is dated and signed by the secretary/director of the company.		
9g (iii)	provides details of the number, nominal value and redeemable share class of the shares being redeemed		
9g (iv)	details the total amount for which the shares were redeemed including the premium per share.		
9g (v)	Informs the member that he/she will be paid the redemption price on presentation of the share certificate to the company.		
9h(i)	Draft the written ordinary resolution based on the resolutions approved in the board meeting above at step 9(d)(i)(ii) and have this resolution signed by all members entitled to vote at the meeting where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the top specifically states that it is an ordinary resolution and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. There is no requirement to include the premium or total amount for which they were redeemed in this resolution nor is there a requirement to name the shareholder.	S.193(1) CA2014	
9h(ii)	Where a written resolution is not utilised there is no need for the resolution to be signed. In addition it should not refer to Section 193/194 in any way and the wording in relation to it being valid and effective as if a general meeting had been convened should not be included because a meeting has to be convened for a resolution that is not written.	S.181, S194 CA2014	

	<p>Ensure all members entitled to attend and vote at the meeting/on the written majority resolution have been informed of the meeting within the required notice period (this is also applicable for a majority written resolution). The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014. This notice should include: the date, time, location of the meeting, give details of the special resolutions to be considered for approval, the fact that a proxy can be utilised which does not have to be a member and the date by which the member must notify the company of a proxy being used. A consent to short notice should be signed by all members including the auditor (if applicable) where less than the statutory notice is provided which is a signed confirmation from all parties that they consent to the short notice.</p>		
9h(iii)	<p>Where an extraordinary meeting is held (as opposed to a written resolution), draft the minutes of the extraordinary general meeting with the usual requirements as detailed in step 8d(i) to 8(d)(iii) in addition to detailing the approval by the members at that meeting of the ordinary resolution to approve the redemption and cancellation of the shares using the exact wording as per step 9(d)(i)(ii). Also ensure it refers to all members giving the consent to short notice for the meeting if this short notice period was utilised.</p> <p>Ensure the minutes are signed by the chairperson.</p>		
9i	Draft Form G2 (notice of ordinary resolution) to notify the CRO of the ordinary resolution passed to cancel the shares and then:	S191 CA 2014	
9i (i)	in the effective date on the Form G2, date this the date the (written/non-written) resolution was dated in step 9(h) above. Include the company number and Company name on page one of Form G2		
9i (ii)	In the resolution details section of the Form G2, specifically for the resolution category insert 'shares'		
9i (iii)	In the resolution type and the resolution filled category, insert 'Ordinary Resolution' and 'G2F Ordinary resolution – redeeming and cancelling of issued shares' respectively		
9i (iv)	type the resolutions passed into the resolution text area on the form G2 which is an exact replicate of the resolution prepared at step 9(h) above or alternatively attach a copy of the resolution prepared in step 9(h) above and state 'see resolution attached'.		

9i (v)	In the resolution passed section of the Form G2, insert 'In writing' or if by majority written resolution select that option. Alternatively if it is done by meeting select the general meeting option as appropriate.		
9i (vi)	In the writing type section of the Form G2, insert 'Pursuant to section 193(1) (unanimous written resolution) or is if done by majority resolution insert 'Pursuant to S194' (majority resolution). If done by meeting select the extraordinary general meeting option.	S.193 (1) CA 2014	
9i (vii)	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No'		
9i (viii)	Complete the information of the person/director that will sign the signature page at (xi) below in the remaining part of the section "particulars of persons verifying the contents of the form'.		
9i (ix)	Include details of the agent presenting/filing the From G2 in the detail of presenter section of the Form G2		
9i (x)	File the Form G2 on CORE or send the hard copy form and to the CRO		
9i (xi)	Arrange for a director to sign the electronic G2F signature page once filed on core and send this to the CRO of CORE is used to file Form G2		
9j	File form B7 – variation of company capital, informing the CRO of the redemption and cancellation of the redeemable shares. In the form B7:	S.92 CA 2014	
9j (i)	Include the company number on the top right of the form in the space provided		
9j (ii)	Include the company name in the space provided		
9 j(iii)	In the 'description of change' include a narrative within the space provided or include an attachment and instead include the wording 'See attached'. The wording should detail the number of shares, nominal value per share, the class of shares, the holder of the shares and the date they were redeemed.		
9j (iv)	Include the effective date in the space provided, which should be the date the shares were redeemed		
9j (v)	In the certification section, tick the secretary or director as appropriate		
9j (vi)	In the 'Presenter details' section include the agent that filed the return.		
9k	Draft and file a Form H5 with the CRO. Provide details of the number of shares, the nominal value of the shares and the date the shares were purchased by the company. The Form H5 is due th be delivered to the CRO within 30 days after the delivery to the Company of the shares.		

10	Procedure where the buyback is carried out by way of a contract for purchase of its own shares as opposed to redemption		
10 (1A)a	Step 1A: Where the constitution does not currently allow, hold a board meeting to propose a resolution to insert in the constitution, permission for the company to purchase or redeem its own shares. If the constitution already allows then this step is not applicable so move to step 10 2A below. Ensure the minute details:	S.231, S.193, S.194, S.181 CA 2014	
10 (1A) a(i)	the name of the company and the company number		
10 (1A) a(ii)	the date, location and time of the meeting and the members present at the meeting		
10 (1A) a(iii)	details of who was appointed chairman of the meeting		
10 (1A) a(iv)	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014; Note that notwithstanding the disclosures, the directors were pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest.	S.231 CA2014	
10 (1A) a(v)	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director present holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S.137, S.228, S.229 CA2014	
10 (1A) a(vi)	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a directors as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	S.819, S.839, S.840, S.841, S.842, S.828 CA2014	
10 (1A) a(vii)	the recommendation to the shareholders through special resolution to amend the current constitution to allow for the insertion of a clause to allow the company to purchase or redeem its own shares and to update the constitution for this change and adopt the updated constitution in substitution for and to the exclusion of all existing constitutions.	S.193 (1), S.194, S181 CA2014	
10 (1A) a(viii)	the fact that the secretary/director was instructed to arrange for the passing of the necessary resolutions of the members pursuant to section 193(1) of CA 2014 if done by unanimous resolution or by S194 if done by majority written resolution or alternatively to notify the shareholders to approve the resolution if done by extraordinary general meeting in accordance with Section 181 of CA 2014 and file the Form G1;		

	If approved ensure the minutes are signed and dated by the chairperson and inserted into the minute book of the company.		
10 (1A) b	Draft the written resolution based on the resolutions detailed in the board meeting at step 10 1A(a)(vii) and have this resolution signed by all members entitled to vote at the meeting where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the top specifically states that they are special resolutions and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. Where a written majority resolution has been passed ensure this resolution is signed by the required majority of members and it refers to S194 with wording similar to the aforementioned. If the majority written resolution is used then give the required notice detailed below	S.193 (1), S194 CA2014	
10 (1A) B b(i)	Where a written resolution is not utilised there is no need for the resolution to be signed. In addition it should not refer to Section 193/194 in any way and nor should it contain the wording in relation to it being valid and effective as if a general meeting had been convened because effectively a meeting has to be convened for a resolution that is not written. Ensure all members entitled to attend and vote at the meeting/on the written majority resolution have been informed of the meeting within the required notice period (this is also applicable for a majority written resolution). The required notice period of not less than 21 clear days' notice should be given unless a consent to short notice is obtained from all its members and auditor where applicable in which case a shorter period can be given as dictated by Section 181 of CA 2014.	S194, S.181 CA2014	
10 (1A) B b(ii)	Where an extraordinary meeting is held (as opposed to a written resolution), draft the minutes of the extraordinary general meeting with the usual requirements as detailed in step 8d(i) to 8(d)(iii) in addition to detailing the approval by the members at that meeting of the special resolution to approve the amendment of the Constitution to allow for the buyback of shares using the exact wording as per step 10 1A(a)(vii). Also ensure it refers to all members giving the consent to short notice for the meeting if this short notice period was utilised. Ensure the minutes are signed by the chairperson.		
10 (1A) c	Draft Form G1 (notice of resolution) to notify the CRO of the special resolution passed to amend the Constitution/Memorandum & Articles of Association and then:	S183 CA 2014	

10 c(i)	(1A)	in the effective date on the G1, date this the date the written resolution was dated in step 10(b) above. Include the company number and Company name on page one of Form G1		
10 c(ii)	(1A)	In the resolution category section select 'shares'		
10 c(iii)	(1A)	In the resolution details section of the Form G1, insert 'other'		
10 c(iv)	(1A)	In the resolution type and the resolution filled category, insert 'Special Resolution' and 'G1 special resolution – Alteration of Constitution' respectively		
10 c(v)	(1A)	type the resolutions passed into the resolution text area on the form G1 which is an exact replicate of the resolution prepared at step 10 1A(b) above or alternatively attach a copy of the resolution prepared at step 10 1A(b) above and state 'see resolution attached'.		
10 c(vi)	(1A)	In the resolution passed section of the Form G1, insert 'In writing' or if by majority written resolution select that option. Alternatively if it is done by meeting select the general meeting option as appropriate.		
10 c(vii)	(1A)	In the writing type section of the Form G1, insert 'Pursuant to section 193(1) (unanimous written resolution) or is if done by majority resolution insert 'Pursuant to S194' (majority resolution). If done by meeting select the extraordinary general meeting option.		
10 c(viii)	(1A)	Attach the updated constitution to the Form G1 or send to CRO with the G1 where the hard copy option is utilised.		
10 c(ix)	(1A)	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No'		
10 c(x)	(1A)	Complete the information of the person/director that will sign the signature page at step 10 1A(c)(xiii) below in the remaining part of the section "particulars of persons verifying the contents of the form' of the Form G1		
10 c(xi)	(1A)	Include details of the agent presenting/filing the From G1 in the detail of presenter section of the Form G1		
10 c(xii)	(1A)	File the Form G1 on CORE or send the hard copy form together with the amended Constitution to the CRO.		
10 c(xiii)	(1A)	Arrange for a director to sign the electronic G1 signature page once filed on core and send this to the CRO		

10 (2A)	Step 2A: Draft an agreement for the purchase of own shares by the company. This should include:		
10 (2A)(i)	<ul style="list-style-type: none"> The date 		
10 (2A)(ii)	<ul style="list-style-type: none"> the parties to the contract specifically detailing who is the vendor and who is the purchaser 		
10 (2A) (iii)	<ul style="list-style-type: none"> the fact that the company is incorporated and the date it was incorporated 		
10 (2A) (iv)	<ul style="list-style-type: none"> the issued and authorised share capital of the company 		
10 (2A) (v)	<ul style="list-style-type: none"> a confirmation that the vendor is the beneficial owner of the shares subject to the purchase 		
10 (2A) (vi)	<ul style="list-style-type: none"> stating that the agreement is made by the company pursuant to Part 3 Chapter 6 of Companies Act 2014 and by the constitution of the company. 		
10 (2A) (vii)	<ul style="list-style-type: none"> a statement detailing the fact that the terms of the agreement were authorised by a special resolution of the company and the date this was passed (which will be the same date as the EGM below or written resolution where it is done by written resolution) 		
10 (2A) (viii)	<ul style="list-style-type: none"> document in the agreement that the vendor is selling and the company is purchasing the shares in question detailing the number of shares and the nominal value of those shares and confirming that they are free from all charges, liens, encumbrances and claims. 		
10 (2A) (ix)	<ul style="list-style-type: none"> Provide details of the purchase price for the shares and the fact that the shares are payable in cash/cheque including details of when the payment can be made. 		
10 (2A) (x)	<ul style="list-style-type: none"> Detail the place and when the completion will take place (which will be the same day as the EGM) 		
10 (2A) (xi)	<ul style="list-style-type: none"> Detail the fact that vendor must deliver to the company the share certificate in respect of the shares that form part of the agreement so that they can be cancelled or where the share certificate is lost, confirmation that the vendor will provide an indemnity as required by the company 		
10 (2A) (xii)	<ul style="list-style-type: none"> Detail the fact that the agreement is governed by the laws in the Republic of Ireland and that the agreement constitutes the whole agreement between the parties 		
10 (2A)(xiii)	<ul style="list-style-type: none"> Provide a section for the signature of the director and secretary whereby they sign on behalf of the company 		

	and include a space for a witness and a space for the company seal to be applied.		
10 (3A)	Step 3A: Hold a board of directors meeting to consider and if thought fit recommend to the members to pass an ordinary resolution:	S.231, S.193, S.105, S.181 CA 2014	
10 (3A) a(i)	- That a set number of shares of a particular class be bought back by the company detailing the nominal value per share including the name of the shareholder/member they are to be bought back from and the amount it is proposed that they will be purchased for;		
10 (3A) a(ii)	- The cancellation of the shares once they have been bought back.		
10 (3A) b	The board minute should detail:		
10 (3A) b(i)	the name of the company		
10 (3A) b(ii)	the date, location and time of the meeting and the members present at the meeting		
10 (3A) b(iii)	details of who was appointed chairman of the meeting		
10 (3A) b(iv)	that the directors have disclosed their interest in the decisions been taken under Section 231 of CA 2014; Note that notwithstanding the disclosures, the directors were pursuant to the companies Constitution, entitled to vote and be counted in the quorum in relation to any matter in which he/she has an interest. Confirm the required quorum if stated in the constitution is present	S.231 CA2014	
10 (3A) b(v)	Ensure and state the fact that at least one director is a resident in the European Economic Area as required by Section 137 CA 2014 and that no director present holds more than 25 directorships for the purposes of and in accordance with Sections 228 and 229 CA 2014.	S.137, S.228, S.229 CA2014	
10 (3A) b(vi)	Ensure that it records (and ensure it is a fact) the fact that no director is restricted from acting as a directors as detailed in Section 819, 839, 840 841, 842 and 828 of CA 2014.	S.819, S.839, S840, S.841, S.842, S.828 CA2014	
10 (3A) b(vii)	detail the fact that the articles allows the director to vote and form part of the quorum in relation to any matter in which he is interested.		
10 (3A) b(viii)	provide details of the shares to be bought back including the number and class of shares, the nominal value per share, the total amount that the shares are proposed to be bought back for	S.105 CA2014	

	pursuant to Section 105 of Companies Act 2014 and the name of the shareholder the shares are being bought back from		
10 (3A) b(ix)	Include the resolutions to be put to the shareholders for approval. The wording for these should be the same as the wording in step 10 3A(a)(i)(ii)		
10 (3A) b(x)	refer to draft contracts between the company and the shareholder/member covering the off market purchase of those shares being produced at the meeting;		
10 (3A) b(xi)	detail the discussion on the contract and the decision to convene an extraordinary general meeting to propose the special resolution to amend the Constitution/Memorandum & Articles of Association and to approve the purchase by the company of the shares (if a meeting is to be held where the company chooses to hold a meeting of members as opposed to a written resolution). Where a written resolution is instead utilised, the extraordinary meeting will not be required instead the minutes will refer to the secretary arranging for the written resolution to be signed).		
10 (3A) b(xii)	include the exact wording to be included in the notice to the members about the extraordinary meeting/written resolution (where majority written resolution is utilised under S194 CA 2014). This wording should state that: 1) the contracts between the company and the vendor covering the off market purchase of the shares is for the benefit of the company in the capital of the company as laid before the meeting (if a meeting is to be held) and is initialled by the chairman for the purpose of identification is approved subject to it being signed and sealed on behalf of the company by at least one director; 2) that the number of shares and the nominal value pursuant to the off-market purchase by special resolution be cancelled following purchase.		
10 (3A) b (xiii)	specifically state that the buyback of the shares mentioned in step 10 3A (b)(viii) above are being bought back in accordance with the Articles of Association/constitution of the company and Section 105 of the Companies Act 2014 to include detailing how the buyback is being financed e.g. by way of distributable profits of the company or by way of the proceeds from a fresh issue of shares.	S.105 CA2014	
10 (3A) b (xiv)	Where the purchase is funded out of distributable profits reference should be made to the latest management accounts confirming there were sufficient distributable profits to allow for the buyback		
10 (3A) b (xv)	Where the purchase is funded from the proceeds of a fresh issue of shares, document this fact. A separate minute and process would have to be performed to approve the allotment of the new shares. See the help sheet for the procedures to be performed for the allotment of shares for further details. This minute should make specific reference to the shares being issued to fund the buyback of shares.		
10 (3A) c	If approved ensure the minutes are signed and dated by the chairperson and inserted into the minute book of the company.		

10 (3A) d	Where a written ordinary resolution (unanimous resolution) as defined in S.193 of CA 2014, there is no requirement to provide notice of the meeting or give a consent to short notice (Note however if the buyback is done by special resolution as opposed to being done by the Constitution then this method cannot be utilised)).		
	Where a majority written resolution (under S194) is utilised or an extraordinary meeting is held, issue the notice of the extraordinary general meeting/resolution to all members (the resolutions are the wording as detailed in step 10 3A(b)(ix) entitled to vote in compliance with Section 181 of CA 2014. This notice should include: the date, time, location of the meeting, give details of the special resolutions to be considered for approval (which are effectively a replica of the resolutions in the board minute determined in (b)(x) above), the fact that the purchase agreement is available on request, the fact that a proxy can be utilised which does not have to be a member and the date by which the member must notify the company of a proxy being used. A consent to short notice should be signed by all members including the auditor (if applicable) where less than the statutory notice is provided which is a signed confirmation from all parties that they consent to the short notice.	S.194, S.181 CA2014	
10 (4A)	Step 4A: Where the extraordinary meeting option has been taken (as opposed to the written resolution option which is dealt with in step 10 (5A) below) hold an extraordinary general meeting at less than the statutory notice where a consent to short notice or a written resolution is obtained (otherwise 21 says notice required). This minute of the meeting should detail:	S.105 CA 2014	
10 (4A) i	the name of the company		
10 (4A) ii	the date, location and time of the meeting and the members present at the meeting		
10 (4A) iii	details of who was appointed chairperson of the meeting		
10 (4A) iv	provide details of the shares to be bought back including the number and class of shares, the nominal value per share, the total amount that the shares are proposed to be bought back for pursuant to Section 105 of Companies Act 2014 and the name of the shareholder the shares are being bought back from	S.105 CA 2014	
10 (4A) v	where the shares are being bought back from the profits available for distribution, the minutes should document the fact that the meeting had reviewed the latest set of financial statements and management accounts and confirmed there was sufficient distributable reserves to allow for the lawful buyback.		
10 (4A) vi	Where the purchase is funded from the proceeds of a fresh issue of shares, document this fact.		
10 (4A) vii	refer to draft contracts between the company and the shareholder/member covering the off market purchase of those shares being produced at the meeting;		
10 (4A) viii	give details of the special resolutions which were passed by the members at the meeting (which are effectively a replica of the resolutions in the board minutes determined in step 10 3A(b)(ix) above)		

10 (5A)	Step 5A: If the extraordinary general meeting option in step 10 (4A) above is not utilised, draft the written resolution based on the resolutions detailed in the board meeting at step 10 3A(b)(ix) and have this resolution signed by all members entitled to vote at the meeting where a unanimous resolution has been passed in accordance with Section 193(1) CA 2014. Ensure the company name and number is included at the top of this resolution and the narrative at the top specifically states that they are ordinary resolutions and pursuant to S193(1) of CA 2014 for all purposes be as valid and effective as if a general meeting had been convened. Where a written majority resolution has been passed ensure this resolution is signed by the required majority of members and it refers to S194 with wording similar to the aforementioned.	193 (1), 194 CA 2014	
10 (6A)	Step 6A: Arrange for signing of the purchase contract.		
10 (7A)	Step 7A: Obtain the share certificates from the previous shareholder in relation to the shares bought back. Where the share certificate is lost obtain an indemnity from the seller of the shares.		
10 (8A)	Step 8A: Hold a meeting of the board of directors to note the buyback of the shares. The minutes of this meeting should record among the normal items as detailed in steps 10 3A(b)(i) to (b)(vii) above:		
10 (8A) i	the fact that an EGM had been held/written resolution has been signed where the purchase of the company's own shares had been approved and special resolution passed		
10 (8A) ii	details of the number of shares bought back, the name of the shareholder they were bought back from and the total amount payable		
10 (8A) iii	provide detail of when the payments are to be made		
10 (8A) iv	document the cancellation of the shares subject to the buyback		
10 (8A) iiv	instruct the secretary to arrange for filing of all relevant forms and to update the register of members accordingly.		
10 (9A)	Step 9A: Draft Form G2 (notice of ordinary resolution) to notify the CRO of the ordinary resolutions and then:	S.193 of CA 2014	
10 (9A) i	in the effective date on the G1, date this the date the ordinary resolution was dated. Include the company number and Company name on page one of Form G1		
10 (9A) ii	In the resolution details section of the Form G1, insert 'other'		
10 (9A) iii	In the resolution type and the resolution filled category, insert 'Ordinary Resolution' and 'G2 ordinary resolution – redeeming and cancelling of issued shares' respectively		
10 (9A) iv	type the resolutions passed into the resolution text area on the form G2 which is an exact replicate of the resolution prepared at step 10 (4A) or step 10 (5A) above or alternatively attach a copy of the resolution prepared in 10 (4A) or step 10 (5A) above and state 'see resolution attached'		

10 (9A) v	In the resolution passed section of the Form G1, insert 'In writing' if done by a written resolution as opposed to by a formal meeting. If by meeting select the meeting option.		
10 (9A) vi	In the writing type section of the Form G1, insert 'Pursuant to section 193(1) (unanimous written resolution) if it is done by written resolution under S193 CA 2014. If it is done by majority written resolution in S194, then include wording 'Pursuant to Section 194 (majority written resolution). If it is passed by meeting then selected the extraordinary general meeting option.	S.193 of CA 2014	
10 (9A) viii	In the section 'particulars of persons verifying the contents of the form', under revenue online section include 'No' (where forms are filed on the CRO)		
10 (9A) ix	Complete the information of the person/director that will sign the signature page at step 10 9A(xii) below in the remaining part of the section "particulars of persons verifying the contents of the form" of the Form G2		
10 (9A) x	Include details of the agent presenting/filing the Form G1 in the detail of presenter section of the Form G2		
10 (9A) xi	File the Form G1 on CORE or if done in hard copy send this to the CRO		
10 (9A) xii	Arrange for a director to sign the electronic G1 signature page once filed on core and send this to the CRO		
10 (10A)	Step 10A: File the form B7 on core for the cancellation of the shares as detailed in step 9(j) above and therefore has not been replicated here.		
10 (11A)	Step 11A: Draft and file a form H5 with the CRO– return by a company purchasing its own shares (S.116/S.1079 CA 2014). Provide details of the number of shares, the nominal value of the shares and the date the shares were purchased by the company.	S.116, S.1079 CA 2014	
10 (12A)	Step 12A: Where there is a requirement for the member who had the shares bought back to retire as director (in order to break the link from the company completely so as to meet the share buyback tax legislation requirements), file the form B10 with the CRO and create a minute in relation to the change in director. Ensure a letter of resignation is obtained from the previous director which confirms his/her resignation and confirms they have no further claims against the company.		
11	Ensure the company files the form AOS1 (acquisition of a company of its own shares) with revenue at the time of filing the company's corporation tax computation for the accounting period ended in which the buyback/redemption took place and the favourable CGT treatment applied (i.e. within 9 months of the accounting period end).	TCA 1997	
12	Where the capital gains tax treatment applies to the transaction and capital gains tax is payable on the transaction ensure the		

	shareholder who disposed of his/her shares files in Form CGT Payslip A or Form CGT Payslip B and pays over any tax to the revenue within the required deadline depending on when the buyback took place (if disposal took place between 1 January and 30 November, the due date for payment is 15 December (use Form CGT Payslip A); where disposal took place between 1 December and 31 December, due date for payment is 31 January of the following year (use Form CGT Payslip B). If no tax is payable then this step is not required.		
13	Where the capital gains tax treatment applies to the transaction ensure the shareholder who disposed of his/her shares files with the revenue a Form CG1 if the shareholder is not registered for self-assessment for income tax purposes or where the person is registered for income tax self-assessment; include details of the disposal on the Form 11. Within these forms if applicable to the transaction, fill in the information in the section of the form informing the revenue that the person has availed of retirement relief on the disposal.		
In my professional opinion in my capacity as partner for the provision of professional services the share buyback/redemption has been carried out in accordance with company law and tax legislation. Signed: _____ Date: _____			

Forms

Form G1

Form B7

Form G2

Form H5

Form AOS1

CGT 1

CGT payslip

Corporate Restructuring Checklist

Appendix I

CGT tax relief and conditions to be complied within a group reorganisation/creation of a group/share for undertaking

CGT relief for the transferor in a three party swap – where it is not between a 75% or more Group company initially

Capital gains tax relief for **transferor** in a share for undertaking arrangement (three party swap)

- CGT relief obtained for the disposing company under S.615 TCA 1997
- Ensures - no gain/no loss for the company and the base cost is transferred.

S.615 conditions to be applied for the relief to be availed of are:

- The transfer is part of an amalgamation/reconstruction
- The transferor and transferee are resident in Ireland or the assets are chargeable assets immediately before and after the transfer;
- The transferor receives no consideration other than the assumption of its liabilities.
- Clawback – no clawbacks if undertaking/shares disposed of afterwards.

CGT relief for the transferor in a three party swap – where a 75% Group relationship exists

CGT relief obtained for the disposing company under S.617 TCA 1997 (CGT group relief available where 75% ownership)-

- Ensures no gain/no loss for the company and the base cost is transferred to group company.

Watch clawback under Section 623 TCA 1997 if asset is disposed of within 10 years of transfer and the company leaves the group with the asset. – S.626B TCA 1997 might prevent this if it relates to shares.

If the acquiring company leaves the group within 10 years of the transfer by deeming the acquiring Co. to have disposed of the asset at market value at the date of the original transfer to the other group company (S.623 TCA 1997). Note where S.626B applies at the date of the first transfer then the clawback is prevented as S.626B relief will apply as the company that received the shares can attribute the period of ownership held by the other group companies as being that entities period of ownership.

CGT relief for the shareholders in a two or three way swap

CGT relief for shareholder (individual or company) in a two way swap (two party swap) under S.584 TCA 1997 & S.586 or in a three way swap (i.e. share for undertaking) under S.587 in a such that the base cost of the shares moves over. To avail of this relief the company:

- issuing shares has or in, consequence of the exchange will have control of the other company (applies where obtaining a minority interest also); or

- it issues shares as the result of a general offer made to the members of the other company, which is conditional that if the offer is accepted by the members of the other company, that the acquiring company may have control of the other company; and it must be carried out for bona fide reasons

In order for the stamp duty relief to apply the shareholders of the disposing company must have the same ownership in the new company.

- Possible for the offer to be made unconditional if the original offer was conditional but all the parties did not accept this original offer
- Must effect the transaction not for the sole/main purpose of avoiding tax

Appendix II

Share for share/undertaking –three way swap – Section 80 conditions – Stamp duty

Share for share/undertaking –three way swap -Section 80 relief applies where all of the following exists **(needs to be formally claimed on ROS –self assessment)**:

- Assets transferred constitute an 'undertaking' or part of an 'undertaking'
- Consideration for the acquisition must consist of not less than 90% in the issue of shares in the acquiring co.
- Must acquire 90% or more of the issued share capital of the target company or the undertaking or part of the undertaking of target co.
- Done for bona fide commercial reasons and not done for the main (or one of) purpose of avoiding tax and will be on such terms that will ensure substantial continuity of ownership
- Acquiring company required to remain the beneficial owner of the shares in the target company for a period of two years following the transfer. Note no such clawback where it is disposed as a result of another reorganisation/reconstruction or of a bona-fide liquidation.
- No requirement for shareholder who are issued shares to keep ownership of those shares for any set period.
- Requirement that the Constitution of acquiring Co. specifically states that one of its objects was to acquire the undertaking/shares of target co (relevant for DAC's) or the authorised share capital is increased for the sole purpose of acquiring the undertaking (applicable for LTD' as such a company is not required to have an objects). If the Ltd is not newly incorporated as part of the transaction, then the increase in issued share capital is enough to prove that it was increased for the acquisition of the company (the minutes of the meeting should evidence this).

Appendix III

Share for share—two way swap – Section 79 conditions – Stamp duty

The requirements for Section 79 of SDCA 1999;

- Applies to transfers of assets and property including shares within a group. It does not need to be an undertaking.
- The transferor and transferee companies must be at least 90% associated (i.e. 90% issued share capital, 90% of proceeds available for distribution and 90% assets on a winding up).
- Relief clawed back if the transferor and transferee cease to be associated including by way of liquidation within a two year period of the transaction. Note Section 66 of FA 2017 makes it clear where there is a bona fide liquidation within 2 years of the transaction, then the clawback does not apply as long as the entity that receives it holds on to it for 2 years and the ownership remains unchanged.

If a merger occurs which breaks the relationship, then Section 66 of the Finance Act 2017 confirms where a company acquires assets/shares of another company, where both companies are part of the same group, then Section 79 SDCA 1999 relief applies, notwithstanding that the company that transferred the assets is dissolved following the merger and they are not associated for two years following the transfer. However the successor is required to hold onto the asset that transferred for two years which differs to what we are used to and the ownership of the ordinary share capital of the transferee must remain unchanged. It is very important that these two points are remembered when doing mergers.

Appendix IV

Company secretarial requirements for a share for share transaction – two party swap:

1. Board meeting held by acquirer to detail:
 - Purpose of meeting referring to possible take over;
 - Note that the transfer would constitute substantial property transaction under S.238(1)(b)
 - Pass the required resolutions (as detailed below)
 - Agree to issue letter of offer to shareholders (conditional on gaining control)
2. Acquiring company passes a special resolution to (and file Form G1 with CRO):
 - increase the authorised share capital of the Co. to allow the acquisition of the shares in target co. (as required by Section 80 & 79 SDCA where undertaking is transferred) or to include a new objects that being to acquire the company (option only applicable to DAC's)
 - give power to the directors to allot shares (if applicable)
 - approve the amended Constitution
3. Acquiring company makes a letter of offer to the shareholders in target Co. (must be conditional on acquiring control).
4. Target Co. shareholders accept the letter of offer (must be at least 90% acceptance in order to obtain stamp duty exemption).
5. Acquiring Co. minutes the acceptance of the letter of offer
6. Acquiring Co. to do up a Section 80 statutory declaration (not required to be filed but hold on file for revenue audit purposes) or a Section 79 declaration if applicable.
7. Target Co. shareholders sign a stock transfer form to effect the transfer of the shares to acquiring company & claim S.80/79 exemption
8. Target Co. directors approve the transfer of the shares (minute this)
9. Acquiring Co. issues shares in acquiring Co. to target Co. shareholders in proportion to shares held in target Co. (if amalgamation then in proportion to value transferred in)
 - Follow procedures for issuing share – non-cash
10. Acquiring Co. issue share certificates;
11. Acquiring Co. files the form B5-return of allotments & B4 – alteration of authorised share capital, G1 & G2
12. Acquiring Co. on execution of the transfer arranges for the beneficial ownership register of the Company be updated within 14 days and that the Register of Beneficial Ownership (RBO) be updated for the change from Direct to Indirect ownership
13. Target Co. files B1 on ARD.

Appendix V

Company secretarial requirements for a share for share/undertaking transaction – three party swap:

1. Acquiring Co. draft business transfer agreement
2. Acquiring Co. hold board minute to:
 - Detail purpose of meeting and discuss BTA
 - to request approval from members to effect transaction & pass below resolutions
3. Acquiring Co. passes ordinary/special resolutions to (and file Form G1/G2 with CRO):
 - increase the authorised share capital of the company to allow the acquisition of the shares in target co. (as required by Section 80) or to include a new objects that being to acquire the company (option only applicable to DAC's) – Special resolution
 - give power to the directors to allot shares (if applicable) – ordinary resolution
4. Acquiring Co. passes ordinary/special resolutions to (and file Form G1/G2 with CRO):
 - approve the amended Constitution – Special resolution
 - That the acquisition of the undertaking be approved pursuant to S.238(1)(b) – ordinary resolution
5. That the company seal be affixed to the business transfer agreement – ordinary resolution.
6. Acquiring Co. makes a letter of offer to Target Co. (minute of board meeting to be held also whereby they recommend to members that it be accepted)
7. Target Co. confirm acceptance to business transfer agreement (or where shares are transferred) and Acquirer Co. minute this confirmation
8. Target co. hold board meeting:
 - detailing reason for transfer & how in best interest of Co.;
 - Obtain declaration of interest in transaction from directors (if applicable)
 - Review distributable reserves to ensure adequate
9. Recommend members to pass:
 - special resolution to approve & amend Constitution to allow the sale/transfer to acquiring company –
 - Carry out SAP 204 – directors declaration (e.g. file form G1 for to approve the variation, pass directors resolution and file with CRO within 21 days). Note there is debate among the legal profession as to whether a SAP 204 procedure is required where distributable reserves exist (in excess of the NBV of the shares being transferred out). Section 91 of CA 2014 states where something is transferred out in return for nothing being received by the disposing company, then a SAP 204 is required. Usually where the Company that is

- acquiring the undertaking is due to be sold in the near future then a purchaser's solicitor would require a SAP 204 procedure to be followed.
 - Where a DAC ensures objects allow for the transfer (if not amend constitution – special resolution)
 - Ordinary resolution to approve the transfer agreement and affix the company seal to it and give directors authority to sign the agreement
 - Including resolution to permit transfer under S.238(1)(a);
 - And the reduction of the capital and reserves of Co. by the set amount of the transfer (detailing amount) – S.91 requirement (assuming a SAP 204 is performed based on my comments above)
10. Target Co. accept the letter of offer (must be at least 90% acceptance in order to obtain stamp duty exemption where shares are being transferred) or business transfer agreement and board meeting of directors held to document this fact.
 11. Target Co. shareholders sign a stock transfer form to effect the transfer of the shares to acquiring Co. (where shares as opposed to a business are transferred)
 12. Acquiring Co. to do up a Section 80/79 statutory declaration (not required to be filed but hold on file for revenue audit purposes)
 13. Acquiring Co. issues shares in acquiring Co. to target Co. shareholders in proportion to shares held in target Co. (if amalgamation in proportion to value received)
 - Follow procedures for issuing share – non-cash – minutes of board minutes
 14. Acquiring Co. Issue share certificates
 15. Acquiring Co. files the form B5-return of allotments/G1 & G2/B4
 16. Target Co. files SAP 204, G1 & G2

Accompanying Guide to the AGM & EGM Checklist

www.CompaniesAct2014.com

The Ultimate Companies Act 2014 Toolkit
for Accountants & Professional Advisors

Companies (Miscellaneous Provisions) (Covid-19) Act 2020

Accompanying Guide to AGM & EGM Checklist

Definitions	
<i>'general meetings'</i> include; AGMs, EGMs, Scheme Meetings and general meeting of holders of shares of a particular class	
<i>'interim period'</i> period commencing on date of commencement and expiring on 31 December 2020	
Notes	Legislative Reference
Notwithstanding Any Provision in The Constitution or S.175(1)(2) CA2014 OR s.341(2) CA2014, a Company need not hold an AGM as long as it is held by 31 December 2020 at the latest.	S.174A(2) CA2014
<p>If a company chooses to use an Electronic Platform for their general meeting it is important that the platform allows for the following;</p> <ul style="list-style-type: none"> • All attendees have a reasonable opportunity to participate in the meeting • A mechanism for casting votes by a member, either before or during the meeting • A system for identifying attendees and security of the technology, minimises data corruption, and provides certainty as to the source of the electronic communications • In the case of failure or disruption to the technology that the failure or disruption is remedied as soon as practicable. • Enables the attendee to hear what is said by the chairperson and any person introduced by the chairperson • Allows the attendee to speak and submit questions and comments during the meeting to the chairperson to the extent that the attendee is entitled to do so under the constitution of the company. 	S.174A(9) CA2014
The Company should test extensively ahead of the meeting the chosen electronic platform in order to ensure they are happy with the technology, audio and audio visual.	
If there are a significant number of attendees, and the submission of comments or questions orally is not feasible a provision must be made to allow the submission of questions, whether this be by text message, messaging applications or any similar software.	
It is important that the company identifies a manner of which the Chairperson can identify votes cast by the individual members, especially in the case where there are large numbers of members.	

<p>A suggested method for this can be that an identification code is established for each member entitled to vote. This code is posted to the address supplied for the members, similar in the way a notice is sent or to the members email address.</p> <p>On the day of the meeting the member can then identify the number for which they were supplied, this can be verified by the Secretary as being that of the member or proxy and the Chairperson can then clearly identify the member casting such the vote(s).</p>	
<p>The company must ensure that participation by the attendees</p> <ul style="list-style-type: none"> • Guarantees the security of the communication by the attendees • Minimise the risk of data corruption • Minimise the risk of unauthorised access • Provides certainty as to the source of the electronic communication <p>The Company is not responsible for any technological failings or disruptions relating to the equipment of the attendees and any such event does not invalidate the meeting.</p> <p>However, if there are any technological failings or disruptions on the Companies behalf these should be attempted to be remedied as soon as is possible.</p>	
<p>Venue</p>	
<p>General Meetings may now be held during the interim period by electronic means and do not in the case of AGM require a physical venue as long as those entitled to attend have reasonable opportunity to participate.</p> <p>It is not possible for a member to demand a vote.</p>	<p>S.174A(3) CA2014</p> <p>S.195A(1) (b) CA2014</p>

<p>Change of Location and date of a General Meeting</p>	<p>S.174A(4) CA2014</p>
<p>In order to comply with Government public health guidance, The Directors have any time up to the end of the day prior to the day scheduled for the commencement of the meeting to make the following changes;</p> <ul style="list-style-type: none"> • Cancel the meeting • Change the venue of the meeting, or • Change the means of holding the meeting (including providing for facilitating attended to participate in such meeting by way of electronic communications technology) or, • Due to exceptional and unexpected circumstances, the directors may cancel such meeting at any time prior to the holding of that meeting <p>Notice of such changes should be given in the same way as the meeting was first notified, unless, if it is not possible to give notice in such a way, notice can be given by the following methods;</p> <ul style="list-style-type: none"> • Notice on the company website • Email to all the members for which the Company is assured it the members email address • Notice in a national newspaper 	<p>S174A(12) CA2014</p>
<p>Alongside the standard requirements for Notices, the Notice must include the following;</p> <ul style="list-style-type: none"> • in the case of a meeting during the interim period proposed to be held wholly or partly by the use of electronic communications technology • the electronic platform to be used for the meeting • details for access to the electronic platform • the time and manner by which an attendee must confirm his or her intention to attend the meeting • any requirements or restrictions which the company has put in place in order to identify attendees who intend to attend the meeting • the procedure for attendees to communicate questions and comments during the meeting • the procedure to be adopted for voting on resolutions proposed to be passed at the meeting 	<p>S.181(5) (aa) CA2014</p>
<p>Attendance at the General Meeting</p>	
<p>Each member or proxy shall be counted in as the quorum where they participate in the general meeting if done by electronic means in line with the legislation</p>	
<p>Proxies whom do not give the necessary 48 hour notice (or such other notice as stated in the Constitution) before the commencement of the meeting or adjourned meeting may be restricted from access by the Company but can send other notice as stated in the Constitution.</p>	<p>S.183(6) CA2014</p>
<p>Attendees shall not permit a person not entitled to attend, participate, listen or view the meeting unless authorised by the Chairperson</p>	

Voting at the General Meeting	
As detailed above under the <i>Notes Section</i> it is important that the Chairperson can determine that the votes or the members are those from the members that are entitled to vote. See above for further detail on such.	
Dividends	S.174A(5) CA2014
Where a dividend has been recommended to be declared by the Directors at a general meeting, subsequently due to the perceived consequences of Covid 19 the dividend may be cancelled or reduced, must be approved by all members. Notice of such cancelation or resolution to reduce the dividend must be given no later than 3 business days before the general meeting in the method as set out in the notice section above.	

**(AGM - Updated with Companies (Miscellaneous Provisions) (Covid-19)
Act 2020 – edit as applicable to the Company)**

Name of Company Limited

Notice of an Annual General Meeting

Notice is hereby given, that the Annual General Meeting of **Name of Company Limited** will be held via **Electronic Platform e.g. Zoom, Skype, Microsoft Teams, Google Hangouts etc** on **day of 20XX** at **Time** a.m./p.m. to transact the following ordinary business of the Company:-

1. To receive and consider the Directors' report and the financial statements for the **year/period ended Date**;
2. The review by the **members/sole member** of the company's affairs;
3. **The declaration of a dividend/reduction of a dividend**; (Save where the company's constitution provides otherwise)
4. **To elect/re-elect Name and Name as directors/sole Director**; (Where the company's constitution so provides)
5. To re-appoint **Name of Auditor** as Auditors;
6. **The remuneration of directors/sole Director**. (Where the company's constitution so provides)

Company Name Limited considers the health, safety and wellbeing of its shareholders and attendees to be a priority and in line with Government restrictions and HSE advise will aim to minimize the spread of COVID-19 in relation to the current AGM. With this in mind, the AGM will be held via **Name of Electronic Platform**. The use of **Name of Electronic Platform** will allow attendees to participate by audio or audio visual means in accordance with new regulations as provided by Companies (Miscellaneous Provisions) (Covid-19) Act 2020.

Company Name Limited acknowledges that the this may be a new experience for its shareholders and will endeavor to ensure this is the best experience for the shareholders. With this in mind please see below a step by step guide to register your or a proxy's attendance.

Registration:

Please email confirmation of your attendance to **XXX@XXXX** before **X o' clock on XX/XX 2020** providing the unique ID code detailed below so that we can verify it is from an authorised shareholder. We would also request that you provide us with the address you communicated to us for inclusion in the share register of the Company.

Your unique ID code is: **XXXXXXXX**.

Note the above code is a very important code as it allows the Company to verify the identity of the member.

Directors:
Company Secretary:
Registered Office:
Company No.:

Commented [SG1]: The following headings should be tailored to the specific platform the Company will be using. The Notice will need to include the website of the chosen platform, access to the platform and details how to access by video or phone.

The notes below are for guidance purposes only and should be amended accordingly.

An example of such Notice is supplied in the pack for use with the Zoom Platform

After Registration:

Check your system requirements for use on **ELECTRONIC PLATFORM** to ensure you have a seamless experience on the day and test ahead of time. As the day of the AGM will be busy, we requested that you forward any queries you may have in relation to access at least **X** days in advance of the meeting.

Day of the AGM:

You will receive a link to join the meeting **3** hour ahead of the commencement time. This link will be sent to the email address that the shareholder used to confirm his/her/their attendance at that the AGM. It is vitally important that you check this email. We cannot be held accountable for yourself not checking this email.

Commented [SG2]: Giving time for the attendees to test their equipment

We would advise that you schedule the AGM date and time into your calendar.

Click the link in the email to join the Meeting where the Chairperson will commence at the given time. We have provided a step by step guide on how to log into the meeting in Appendix **A** to this notice.

Voting

In order to vote (assuming the rights of the share class held by you allows voting) you will need to supply the Secretary **with your unique code given to you in this notice OR previously given at registration.**

Without this code it will not be possible to vote.

ADJUST AS APPROPRIATE

Voting will be held by a show of hands on the resolution(s) above. If you are not using audit visual, you will be unable to vote. While you can attend by phone, it will not be possible to vote. Where you are using audio visual, please note the Chairperson will need to be able to clearly see your hand.

OR

Voting will be carried out by way of a poll. The technological means will be available to carry out a poll and details of how this is done has been included in Appendix A.

Useful Information:

If you would like to submit any general queries ahead of the AGM, please email those to XXX@XX.com.

If you have specific queries you would like to discuss at the AGM relating to the above businesses of the AGM please email those to xx@xxx.com.

If you have not submitted questions before the AGM, you will still have the opportunity to ask these on the day. Appendix A to this notice provides details of how you can raise a question on the day.

Directors:
Company Secretary:
Registered Office:
Company No.:

The Company is not responsible for any technological failings or disruptions relating to the equipment of the attendees and any such event does not invalidate the meeting. It is strongly recommended to test the software ahead of the commencement of the meeting.

On the day of the AGM if there are any technological failings or disruptions on our behalf we will attempt to remedy them as soon as is possible.

By Order of the Board

Dated: 20XX

Name
Secretary

Note:

A member entitled to attend, speak and vote at the above-mentioned meeting is entitled to appoint a proxy to attend, speak and vote on his/her behalf. A proxy need not be a member of the Company.

Directors:
Company Secretary:
Registered Office:
Company No.:

**(AGM - Updated with Companies (Miscellaneous Provisions) (Covid-19)
Act 2020
Notice with Zoom as Electronic Platform of choice – edit as applicable
for the Company)**

Name of Company Limited

Notice of an Annual General Meeting

Notice is hereby given, that the Annual General Meeting of **Name of Company** Limited will be held via **Zoom** on day of 20XX at **Time** a.m./p.m. to transact the following ordinary business of the Company:-

1. To receive and consider the Directors' report and the financial statements for the **year/period ended Date**;
2. The review by the **members/sole member** of the company's affairs;
3. **The declaration of a dividend/reduction of a dividend**; (Save where the company's constitution provides otherwise)
4. **To elect/re-elect Name and Name as sole Director/directors**; (Where the company's constitution so provides)
5. To re-appoint **Name of Auditors** as Auditors;
6. **The remuneration of the sole Director/directors**. (Where the company's constitution so provides)

Company Name Limited considers the health, safety and wellbeing of its shareholders and attendees to be a priority and in line with Government restrictions and HSE advise will aim to minimize the spread of COVID-19 in relation to the current AGM. With this in mind, the AGM will be held via **Zoom**. The use of **Zoom** will allow attendees to participate by audio or audio visual means in accordance with new regulations as provided by Companies (Miscellaneous Provisions) (Covid-19) Act 2020.

Company Name Limited acknowledges that the this may be a new experience for its shareholders and will endeavor to ensure this is the best experience for the shareholders. With this in mind please see below a step by step guide to register your or a proxy's attendance.

Registration:

Please email confirmation of your attendance to **XXX@XXXX** before **X o' clock** on **XX/XX 2020** providing the unique ID code detailed below so that we can verify it is from an authorised shareholder. We would also request that you provide us with the address you communicated to us for inclusion in the share register of the Company.

Your unique ID code is: **XXXXXXXX**.

Directors:
Company Secretary:
Registered Office:
Company No.:

Commented [SG3]: The notes below are for guidance supposes only and should be amended accordingly.

Note the above code is a very important code as it allows the Company to verify the identity of the member.

After Registration:

Check your system requirements for use on **Zoom** to ensure you have a seamless experience on the day and test ahead of time. As the day of the AGM will be busy, we requested that you forward any queries you may have in relation to access at least **X** days in advance of the meeting.

Day of the AGM:

You will receive a link to join the meeting **1** hour ahead of the commencement time. This link will be sent to the email address that the shareholder used to confirm his/her/their attendance at that the AGM. It is vitally important that you check this email. We cannot be held accountable for yourself not checking this email.

We would advise that you schedule the AGM date and time into your calendar.

Click the link in the email to join the Meeting where the Chairperson will commence at the given time. We have provided a step by step guide on how to log into the meeting in Appendix **A** to this notice.

Voting

In order to vote (assuming the rights of the share class held by you allows voting) you will need to supply the Secretary **with your unique code given to you in this notice OR previously given at registration.**

Without this code it will not be possible to vote.

ADJUST AS APPROPRIATE

Voting will be held by a show of hands on the resolution(s) above. If you are not using audit visual, you will be unable to vote. While you can attend by phone, it will not be possible to vote. Where you are using audio visual, please note the Chairperson will need to be able to clearly see your hand.

OR

Voting will be carried out by way of a poll. The technological means will be available to carry out a poll and details of how this is done has been included in Appendix A.

Useful Information:

If you would like to submit any general queries ahead of the AGM, please email those to XXX@XX.com.

If you have specific queries you would like to discuss at the AGM relating to the above businesses of the AGM please email those to xx@xxx.com.

Directors:
Company Secretary:
Registered Office:
Company No.:

If you have not submitted questions before the AGM, you will still have the opportunity to ask these on the day. Appendix A to this notice provides details of how you can raise a question on the day.

The Company is not responsible for any technological failings or disruptions relating to the equipment of the attendees and any such event does not invalidate the meeting. It is strongly recommended to test the software ahead of the commencement of the meeting.

On the day of the AGM if there are any technological failings or disruptions on our behalf we will attempt to remedy them as soon as is possible.

By Order of the Board

Dated: 20XX

Name
Secretary

Note:

A member entitled to attend, speak and vote at the above-mentioned meeting is entitled to appoint a proxy to attend, speak and vote on his/her behalf. A proxy need not be a member of the Company.

Directors:
Company Secretary:
Registered Office:
Company No.:

Appendix A

How to Join the Meeting

Different methods for Joining ahead of the Meeting

If joining from a mobile device

If you are joining from a mobile device (Android smartphone/tablet, Apple iPhone/iPad) then it will simply prompt you to download the Zoom Cloud Meetings app from the App/Play Store.

If joining from a computer and using Zoom for the first time

When entering a Zoom meeting for the first time from a computer you will need to download a small application file.

This process is easy to complete on all commonly used browsers. The examples below are shown using Google Chrome.



Google Chrome should automatically download the file and point to it as shown above. Clicking on the Zoom_launcher.exe file will install Zoom, there will be a short pause before a blue progress bar appears indicating the installation.

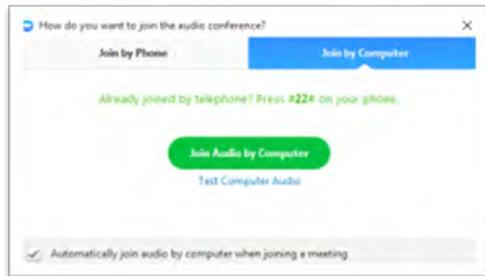
If an 'Application Launcher' or 'External Protocol Request' box appears simply tick the 'Remember my choice...' option box and then click 'OK'

Just before entering the meeting you will be prompted to enter a display name. This name is simply to identify you in the meeting and is not connected to your zoom username.

Join Audio via Computer

You will then be prompted how you wish to join your audio. If you wish to join audio via the telephone, follow the instructions further down, otherwise simply select Join Computer by Audio (TIP: by ticking the "Automatically join audio by computer..." option box first, will mean you won't get prompted again in the future)

Directors:
Company Secretary:
Registered Office:
Company No.:



Join via Telephone

If you are unable to join from Zoom on a computer or mobile device, then you can join on the telephone instead.

If you would like to attend a Zoom meeting via telephone within Ireland please call the Irish number (check this link for up to date numbers <https://zoom.us/zoomconference>). Then enter the Meeting ID and PIN (if required) when prompted.

Please note calls will be charged at standard national rates.

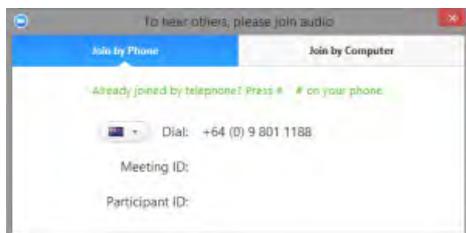
There are also many "local" dial-in numbers from many international locations. You can find more details on these on the Zoom website or by emailing the support email at XX@XXX.COM.

Join via Computer & Audio via Telephone

It is possible to use a combination of computer for video and phone for audio.

If you use this option, then enter by computer first and select the Join By Phone tab when the audio pop-up window appears (see example below). This will display the Irish dial in number for you (or you can change it to display one of the many other countries which have a "local" dial in number by clicking on the flag icon), as well as the Meeting ID to enter and your Participant ID.

Dial in as noted above, however after entering the Meeting ID, you will be prompted to enter your Participant ID. Simply enter this number followed by # and your video and audio will then be synchronised.

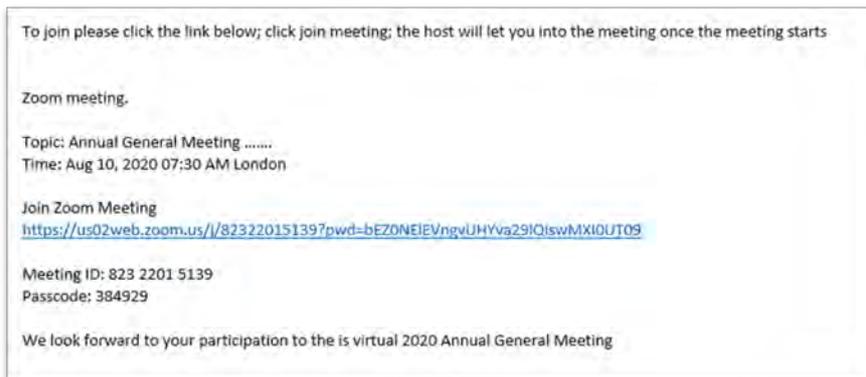


Day of the Meeting

Directors:
Company Secretary:
Registered Office:
Company No.:

On receipt of the email and prior to the commencement of the meeting, please click on the Zoom link in the email.

The email will be formatted as such;

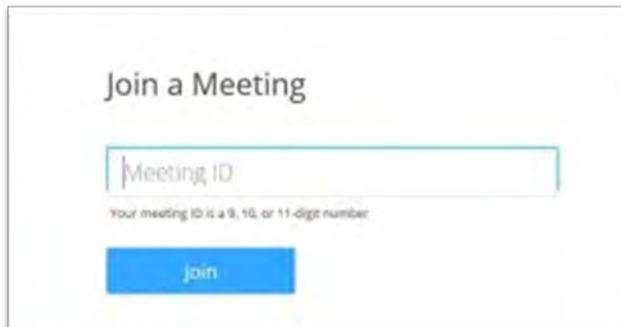


The Link will allow you to join the Meeting.

OR

If you are having issues with the link or you have not received the email within 1 hour please email the support email at XXX@XXX.com where you will be provided with the link to open Zoom and the Meeting ID. You can enter the Meeting ID provided into the appropriate field and click 'Join'. The Meeting ID will be a 9 or 10 digit number.

The Meeting ID request will look as follows;



Questions during the Meeting - Raising Your Hand

As the non-speaker if you wish to ask a question or make a point during a meeting it is good protocol to use the 'Raise Hand' facility.

Directors:
Company Secretary:
Registered Office:
Company No.:

If the tool bar is not showing at the bottom of the Zoom window, place your cursor over the Zoom window so it appears and select the 'Participants' icon.



A window listing other participants will appear, there is also a 'Raise Hand' icon, click the icon to make it known to the Host that you would like to raise your hand.



If you wish to lower your hand, click the 'Lower hand' icon that will have replaced the 'Raise hand' icon.



Using Chat

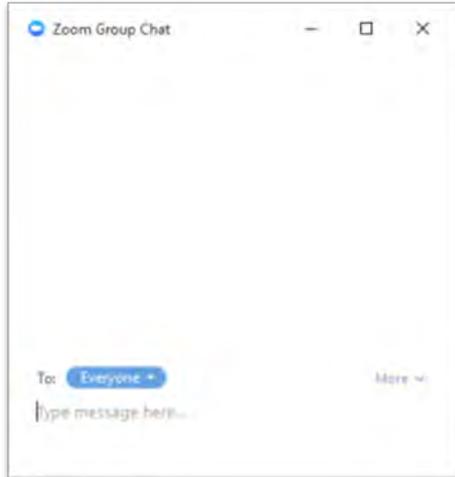
You can use the 'Chat' facility to send text chat to all participants or privately to specific participants.

Click on the 'Chat' icon in the tool bar, again hover your mouse over the Zoom window if you can't see the tool bar.



A chat window will then open. Select 'Everyone' or the name of the person you wish to send a chat message to.

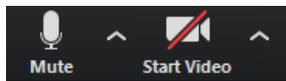
Directors:
Company Secretary:
Registered Office:
Company No.:



Audio only

It is possible that during the conference participants will be asked to turn off their cameras and move to audio only, particularly if there are problems with the available bandwidth.

To do this simply click on the camera icon at the bottom of the Zoom window.



Important Information

It is important that prior to the Meeting you have tested the platform and are familiar with it. You can run a test Zoom meeting through the Zoom website at <https://zoom.us/test> or alternatively if you have any queries you can email into the dedicated Meeting email at xx@xxx.com.

Directors:
Company Secretary:
Registered Office:
Company No.:

(Hybrid AGM – edit as applicable to the Company)

Company Name Limited

Notice of an Annual General Meeting

Notice is hereby given, that an Annual General Meeting of **Company Name Limited** via **Electronic Platform e.g. Zoom, Skype, Microsoft Teams, Google Hangouts etc** on **XX** day of **XX 20XX** at **a.m./p.m.**

Warning Note: Measures regarding COVID-19 and reduction in its transmission

Company Name Limited considers the health, safety and wellbeing of its **shareholder(s)** and attendees to be a priority and in line with Government restrictions and HSE advise will aim to minimize the spread of COVID-19 in relation to the current AGM. With this in mind, the AGM will be held via **Name of Electronic Platform**. The use of **Name of Electronic Platform** will allow attendees to participate by audio or audio visual means in accordance with new regulations as provided by Companies (Miscellaneous Provisions) (Covid-19) Act 2020.

Company Name Limited acknowledges that this may be a new experience for its **shareholder(s)** and will endeavor to ensure this is the best experience for the **shareholder(s)**. With this in mind please see below a step by step guide to register your or a proxy's attendance.

- **Shareholder(s)** are strongly encouraged to appoint a proxy as the preferred means of fully and safely exercising their rights. A Special Proxy will allow you to vote ahead of the meeting. A Proxy Form is enclosed with this note and you should refer to the Proxy Form for guidance on how to complete it.
- Please note, it will not be possible to vote during the video/audio conference, the proxy is required to be completed ahead of the meeting and submitted.

Registration:

Please email confirmation of your attendance to **XXX@XXXX** before **X o' clock** on **XX/XX 2020** providing the unique ID code detailed below so that we can verify it is from an authorised shareholder. We would also request that you provide us with the address you communicated to us for inclusion in the share register of the Company.

Your unique ID code is: **XXXXXXXX**.

Note the above code is a very important code as it allows the Company to verify the identity of the member.

After Registration:

Check your system requirements for use on **electronic platform** to ensure you have a seamless experience on the day and test ahead of time. As the day of the AGM will be busy, we requested that you forward any queries you may have in relation to access at least **X** days in advance of the meeting.

Directors:
Company Secretary:
Registered Office:
Company No.:

Commented [SG4]: The following headings should be tailored to the specific platform the Company will be using. The Notice will need to include the website of the chosen platform, access to the platform and details how to access by video or phone.

The notes below are for guidance purposes only and should be amended accordingly.

An example of such Notice is supplied in the pack for use with the Zoom Platform

Day of the AGM:

You will receive a link to join the meeting 3 hour ahead of the commencement time. This link will be sent to the email address that the shareholder used to confirm his/her/their attendance at that the AGM. It is vitally important that you check this email. We cannot be held accountable for yourself not checking this email.

Commented [SG5]: Giving time for the attendees to test their equipment

We would advise that you schedule the AGM date and time into your calendar.

Click the link in the email to join the Meeting where the Chairperson will commence at the given time. We have provided a step by step guide on how to log into the meeting in Appendix A to this notice.

Voting with Electronic Platform:

As noted above it will not be possible to vote during the video/audio conference, the proxy is required to be completed ahead of the meeting and submitted.

Useful Information:

If you would like to submit any general queries ahead of the AGM, please email those to XXX@XX.com.

If you have specific queries you would like to discuss at the AGM relating to the above businesses of the AGM please email those to xx@xxx.com.

[If you have not submitted questions before the AGM, you will still have the opportunity to ask these on the day. Appendix A to this notice provides details of how you can raise a question on the day.](#)

The Company is not responsible for any technological failings or disruptions relating to the equipment of the attendees and any such event does not invalidate the meeting. It is strongly recommended to test the software ahead of the commencement of the meeting.

On the day of the AGM if there are any technological failings or disruptions on our behalf we will attempt to remedy them as soon as is possible.

The following is the ordinary business of the Annual General Meeting;

1. To receive and consider the Directors' report and the financial statements for the **year/period ended Date**;
2. The review by the **members/sole member** of the company's affairs;
3. **The declaration of a dividend/reduction of a dividend**; (Save where the company's constitution provides otherwise)
4. **To elect/re-elect Name and Name as /sole director/directors**; (Where the company's constitution so provides)

Directors:
Company Secretary:
Registered Office:
Company No.:

5. To re-appoint **Name of Auditors** as Auditors;
6. **The remuneration of sole director/directors.** (Where the company's constitution so provides)

As an Ordinary Resolution:-

Insert Ordinary Resolution(s) if applicable

As a Special Resolutions:-

Insert Special Resolution(s) if applicable

By Order of the Board

Dated:

Secretary

Note:

A member entitled to attend, speak and vote at the above-mentioned meeting is entitled to appoint a proxy to attend, speak and vote on his/her behalf. A proxy need not be a member of the Company.

Directors:
Company Secretary:
Registered Office:
Company No.:

AGM & Minutes Checklist

www.CompaniesAct2014.com

The Ultimate Companies Act 2014 Toolkit
for Accountants & Professional Advisors

Annual General Meeting Checklist

Client:

Prepared by:

Reviewed by:

Signed:

Date:

Checklist	Legislative Reference	Complete
<p>Every company must hold an AGM each year and not more than 15 months can lapse between the date of one AGM and another.</p> <p>A company's first AGM must be held within 18 months of incorporation.</p> <p>An AGM must be held within 9 months of the financial statement period end.</p> <p><i>See supplementary Covid 19 Accompanying Guide to AGM & EGM Checklist.</i></p>	<p>S.175 CA2014</p> <p>S.341 CA 2014</p>	
<p>Are the financial statements signed off and available for the AGM?</p> <p>If not, the AGM must still be held (and notice given if the option to dispense with the AGM is not availed of or available) where all items other than the financial statements are discussed.</p> <p>The AGM will then be adjourned until the financial statements are available. At that time the usual notice periods are required for the reconvened meeting.</p>	S.341 CA 2014	
Dispensing of AGM for Limited Companies		
Limited Companies only (it does not cover DACs, ULCs or CLGs) have the option to dispense with the requirement to hold a physical AGM in respect of a calendar year of any and all future years, has your company considered this option?	S.175(3) CA2014	
<p>Has the written resolution to dispense with the AGM been signed by all the members (as is required) for the current year. This is required to be done annually.</p> <p>Ensure that the resolution is signed by all members within 9 months of the period end date. If there is doubt, ensure it is signed within 8 months and 4 days to give time for the AGM.</p> <p>If the resolution is not signed by all members, then convene a general meeting.</p>	S.175(3) (4) CA2014	
<p>If yes, has a directors meeting been held which approves and signs the (audited if applicable) financial statements?</p> <p><i>See Directors Meeting checklist</i></p>	S.161 CA 2014	

<p>Following this have all the members entitled to vote signed a written resolution to;</p> <ul style="list-style-type: none"> • dispense of the AGM, • acknowledging receipt of the financial statements • resolving that the matters that would have been dealt with are passed, and that there is no change to the auditor (if not audit exempt)? 	S.178(3)(4) CA2014	
If the resolution is not signed by all members then convene a general meeting.		
Annual General Meeting		
<i>Prior to the Annual General Meeting</i>		
<p>Has the Directors meeting been convened to approve the accounts for signing and recommend the resolution(s) to members and to convene the AGM.</p> <p><i>See checklist on Directors Meetings</i></p>	S.160 CA2014	
The companies Constitution should be reviewed prior to the AGM for any unique requirements for the notice or the AGM itself?		
<p>Has the date, time and location been set for the AGM (it can be held in or out of the country as long as the company provides technology to allow all members to participate?</p> <p>Care should be given to ensure the location will accommodate the AGM and is accessible to those attending.</p> <p>Note: for a property management company there is a requirement under the MUDs Act for the meeting to be held in a location close to the proximity of the Multi-unit Development (unless 75% of the members agree otherwise).</p> <p><i>See supplementary Covid 19 Accompanying Guide to AGM & EGM Checklist.</i></p>	S.176 CA 2014	MUD Act
<p>Has the company Secretary or a Director organised for 21 clear days' notice been given for the AGM (unless they have consented to short notice and a resolution has been passed by all parties)?</p> <p>Note: Here notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting. In determining whether the correct period of notice has been given by a notice of a meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.</p>	S.181(1)(3) (4) CA2014	
<p>The Notice for the AGM should include date, time, duration, location and the agenda for the AGM. For electronic means see the</p> <p><i>See supplementary Covid 19 Accompanying Guide to AGM & EGM Checklist.</i></p>	S.181(5) CA2014	

<p>Has notice of the meeting included a copy of;</p> <ul style="list-style-type: none"> the statutory financial statements of the company for the financial year, the directors' report, including any group directors' report, for the financial year, the statutory auditors' report on those financial statements and the directors' report (if applicable), the text of any proposed special resolution to be proposed at the AGM. 	<p>S.175 CA2014</p> <p>S.181 CA2014</p> <p>S.341 CA2014</p>	
<p>Have all of the persons below entitled to notice been sent notice of the meeting;</p> <ul style="list-style-type: none"> Members Statutory auditor Directors & Secretaries of the company Personal representatives of deceased members (not required for CLG) Bankruptcy assignee of the bankrupt members (not required for CLG) 	<p>S.180 CA2014</p> <p>S.1204 CA 2014</p>	
<p>Have the members and auditors consented to short notice? If so, have all of the members and auditor (if applicable) sent the directors of the company consent to short notice approval.</p> <p>Is this on file?</p>	<p>S.181 CA2014</p>	
<p>Does the notice include the following;</p> <ul style="list-style-type: none"> Place, date and time of the meeting General nature of the business to be transacted If there is a special resolution the proposed text of the resolution Proxy entitlements and location and time by which the proxy should be received if applicable. <p><i>See supplementary Covid 19 Accompanying Guide to AGM & EGM Checklist.</i></p>	<p>S.183/184 CA2014</p>	
<p>Have proxies been delivered at least 48 hours prior to the meeting.</p> <p>If not, the proxy will be deemed to be invalid. In addition a proxy is invalid if they are not in the correct format. S.184 CA details the format to use.</p>	<p>S.183 & 184 CA2014</p>	
<p>Day of the Annual General Meeting</p> <p><i>See supplementary Covid 19 Accompanying Guide to AGM & EGM Checklist for AGMs held by electronic means.</i></p>		
<p>Attend AGM at location and time specified on the notice.</p> <p>It is advised to arrive in advance to ensure the location is ready in order to prevent any delay during the meeting.</p>		
<p>Are all documents including the;</p> <ul style="list-style-type: none"> the statutory financial statements of the company for the financial year, the directors' report, including any group directors' report, for the financial year, the statutory auditors' report on those financial statements and that directors' report. 	<p>S.341 CA2014</p>	
<p>Is there an attendance sheet? If so, has this been signed whether in person or by proxy? For electronic meeting, where permitted, have a log of all persons on the audio or visual platform.</p>		
<p>Has the quorum of members required been met when the meeting begins (whether in person or by proxy)?</p>	<p>S.182 CA2014</p>	

Unless the constitution provides otherwise there should be a minimum of 2 members present.		
Subject to the constitution stating otherwise, If the quorum is not present within 15minutes from the start time of the meeting then, the meeting will be adjourned to sometime in the next week at the same location (or such other time or place as the Directors determine). If at the adjourned meeting, the quorum isn't present within half an hour of the time set, the members present are a quorum.	S.182(5) CA2014	
Has the company's constitution been reviewed for any bespoke provisions for any modifications to the AGM agenda.	S.186 CA2014	
If no provisions are present in the constitution has the meeting followed the following agenda and led by the Chairperson; To be covered in all cases <ul style="list-style-type: none"> • the company's statutory financial statements and the report of the directors should be considered including the auditor or accountants report • members review the company's affairs; To be covered if companies constitution does not remove the requirement <ul style="list-style-type: none"> • approve a dividend as recommended by the directors • authorise the directors to approve the remuneration of the statutory auditors (if any) To be covered if companies constitution has been modified to require it <ul style="list-style-type: none"> • the election and re-election of directors; • the remuneration of directors To be covered unless the company has availed of the audit exemption <ul style="list-style-type: none"> • the appointment or re-appointment of statutory auditors 	S.186 CA2014	
Has a Chairman been elected for the meeting? If not; the Chairperson of the board of Directors acts as the Chairman. If the elected Chairman is not present within 15 minutes the Directors need to elect a Chairman. If the Directors do not elect a Chairman, the members can elect one from the members present.	S.187 CA2014	
At commencement, has the Secretary read the notice and ensured a quorum is present?		
Have the minutes of previous meetings been presented?		
Are the minutes of the meeting being kept? Often this is done by the Secretary or an appointed person.		
Are all items in the agenda being covered? The Chairman should ensure the agenda is being followed.		
Has time been given for those present to query anything brought up in the meeting?		

Has the voting method been explained to those attending with the ability to vote?	S.188 CA2014	
<p>On a show of hands each member present has an equal vote unless the rights in the constitution or shareholders agreement states otherwise. Where joint holders, the vote of the person first named on the share certificate will be taken as the vote for the joint holders.</p> <p>If shares have not been paid, the member is not entitled to vote where the money has been called by the company. For a CLG as per S.1206 CA 2014 no member can vote where they have not paid all sums owed to the Company</p> <p>Even where a show of hands has been done, the following can still demand a poll. If a poll is demanded is it from:</p> <ul style="list-style-type: none"> - the chairperson; or - at least 3 members present in person or proxy; or - any member which hold 10% or more of the voting rights; or - a member or members holding shares in the company concerned conferring the right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right. (not applicable for a CLG) <p>Hold a vote dealing with the business of the meeting and ensure a count is done in relation to a show of hands. If a poll is carried out - ensure everyone's voting rights are ascertained and check the results based on the votes and the voting rights of each share class as applicable. Ensure sufficient stationary etc. is made available.</p>	S.188 CA2014	
	S.1206 CA 2014	
	S.189 CA 2014	
Members are not entitled to vote at an AGM, unless all calls or sums payable in relation to their share has been paid.	S.188(6) CA2014	
Are there any resolutions to be passed? This includes ordinary and special resolutions.	S.191 CA2014	
An ordinary resolution is passed by a majority of the members with voting rights.	S.190 CA 2014	
If a special resolution is to be passed, it requires at least 75% of the votes at the general meeting or if applicable as specified by constitution or shareholders agreement.	S.191 CA2014	
	S.193 CA2014	
<i>Closing the Annual General Meeting</i>		
In closing out the AGM, have all documents been collected?		
Have the signed minutes been placed in the company's minute book? The minute book cannot be stored electronically.	S.214(2) CA2014	
If any documentation needed for the CRO have been signed, these should be filed with the CRO by the required person within the time frame - has it been done?		

<p>If minutes are purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, then this shall be evidence of the proceedings.</p> <p>Where minutes have been made in relation to general and extraordinary meetings, then, until the contrary is proved—</p> <p>(a) the meeting shall be deemed to have been duly held and convened;</p> <p>(b) all proceedings had at the meeting shall be deemed to have been duly had; and</p> <p>(c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.</p>	<p>S.199(3)(4) CA 2014</p>	
<p>Are the minutes being entered into the minute book as soon as is possible after the meeting?</p>	<p>S.166(2) CA2014</p>	
<p>If a dividend was approved, arrangements should be made for payment(s).</p>		

Written Resolutions & Extraordinary General Meetings Checklist

Client:

Prepared by:

Reviewed by:

Signed:

Date:

Checklist	Legislative Reference	Complete
<p>A meeting other than an Annual General Meeting is considered an Extraordinary General Meeting.</p> <p>Directors may call an EGM when they think fit.</p> <p>If there is not a quorum present for a Directors meeting, any Director or member can convene an EGM.</p> <p><i>See Accompanying Guide to AGM & EGM Checklist</i></p>	S.177 CA2014	
<p>Unanimous Written Resolution</p> <p>A company can choose to pass a resolution by getting all the members to approve the resolution in writing rather than holding a general meeting.</p>	S.183 CA2014	
<p>Is the company choosing to undertake a unanimous written resolution?</p>	S.193 CA2014	
<p>Is this resolution related to removal of a director/auditor? If yes, a written resolution is not permitted and a general meeting must be held.</p> <p><i>See EGM checklist below</i></p>	S.193(11) CA2014 S.195(1) CA2014	
<p>Have all the members entitled to vote signed the resolution?</p> <p>NOTE: the signatures do not have to appear on the same document. It can involve several individual documents with the same resolution signed by the members individually.</p>	S.193 CA2014	
<p>The effective date of the resolution is the date the last member has signed.</p>	S.193(4) CA2014	
<p>Has the signed document been delivered to the company within 14days after its passing?</p>	S.193(6) CA2014	

If the resolution was not signed by the members contemporaneously, have the members been notified of the passing of the resolution within 21 days of getting all the documents relating to the passing of the resolution?	S.193(5) CA2014	
Has the written resolution and its documents been placed into the Register of Minutes?	S.193(7) CA2014	
Majority Written Resolution – Ordinary Resolution	S.194(1) CA2014	
Has the resolution been provided to those members who are entitled to vote at a general meeting of the company by the directors? Note an unlimited company cannot avail of the majority written resolution route.	S.194 & 195 CA 2014	
In order to pass the ordinary resolution; more than has 50% of the voting members must approve it. It is deemed to be passed 7 days after the last member signed it unless this rule is waived by all members.	S.194(3) CA2014	
The signatures do not have to appear on the same document. It can involve several individual documents with the same resolution signed by the members individually.	S.194(11) CA2014	
Has the signed documents been delivered to company by the signatories? Within three days of receiving the resolutions the company must inform all members whether it was passed or not and if passed, then detail the date it was passed.	S.195(3)(2) CA2014	
Has the resolution documents been placed into the minute book?	S.195(4) CA2014	
Has the company waited the appropriate time of 7 days before acting on the resolution? This period is not applicable where all members have consented to the 7 day period being waived.	S.195(9) CA2014	
Majority Written Resolution – Special Resolution	S.194(4) CA2014	
Has the resolution been provided to those members who are entitled to vote at a general meeting by the directors? Note an unlimited company cannot avail of the majority written resolution route.	S.194(6) CA2014	
In order to pass the special resolution, has at least 75% of the members approved the resolution 21 days after the last member signed? It is deemed to be passed 21 days after the last member signed it unless this rule is waived by all members.	S.194(9) CA2014	

The signatures do not have to appear on the same document. It can involve several individual documents with the same resolution signed by the members individually.	S.194(11) CA2014	
Has the signed documents been delivered to company by the signatories?		
Has the resolution documents been placed into the minute book?	S.214(2) CA2014	
Has the company waited the appropriate time of 21 days before acting on the resolution? This period is not applicable where all members have consented to the 21 day period being waived.	S.194(10) CA 2014	
Extraordinary General Meeting Route		
All general meetings of members that are not the annual general meeting are extraordinary general meeting. The company's constitution should be reviewed prior for any bespoke provisions in relation to calling these meetings.	S177(1) CA2014	
The directors of a company may, whenever they think fit, convene an extraordinary general meeting.	S.177(2) CA2014	
Has a Directors meeting been convened to recommend the resolution(s) to members and to convene the EGM.	S.160(3) CA2014	
Have all of the persons below entitled to notice been sent notice of the meeting; <ul style="list-style-type: none"> • Members • Statutory auditor • Directors & Secretaries of the company • Personal representatives of deceased members (not required for CLG) Bankruptcy assignee of the bankrupt members (not required for CLG) For electronic meetings, <i>see Accompanying Guide to AGM & EGM Checklist</i>	S.180 CA2014 S.1204 CA 2014	
Has the date, time and location been set for the EGM (it can be held in or out of the country as long as the company provides technology to allow all members to participate)? Care should be given to ensure the location will accommodate the EGM and is accessible to those attending. Note: for a property management company there is a requirement under the MUDs Act for the meeting to be held in a location close to the proximity of the Multi-unit Development (unless 75% of the members agree otherwise). <i>See Accompanying Guide to AGM & EGM Checklist for the ability to hold electronic meeting.</i>	S.176 CA 2014 MUD Act	
Has the notice been drafted?		
Does the notice include the following; <ul style="list-style-type: none"> • Place, date and time of the meeting • General nature of the business to be transacted • If there is a special resolution the proposed text of the resolution 	S.183/184 CA2014	

<ul style="list-style-type: none"> Proxy entitlements and location and time by which the proxy should be received if applicable. <p><i>See Accompanying Guide to AGM & EGM Checklist</i></p>		
<p>Has the company Secretary or a Director organised for 7 days' notice been given for the EGM if passing an <u>ordinary resolution</u>?</p> <p>Note: Here notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting. In determining whether the correct period of notice has been given by a notice of a meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.</p>	<p>S.181(1) CA2014</p>	
<p>Has the company Secretary or a Director organised for 21 days' notice been given for the EGM if passing a <u>special resolution</u>?</p> <p>Note: Here notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting. In determining whether the correct period of notice has been given by a notice of a meeting, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.</p>	<p>S.181(2) CA2014</p>	
<p>Have the members and auditors consented to short notice? If so, have all of the members and auditor (if applicable) sent the directors of the company consent to short notice approval.</p> <p>Is this on file?</p>	<p>S.181 CA2014</p>	
<p>Have proxies been delivered at least 48 hours prior to the meeting.</p> <p>If not, the proxy will be deemed to be invalid. In addition, a proxy is invalid if they are not in the correct format. S.184 CA details the format to use.</p>	<p>S.183 & 184 CA2014</p>	
<p><i>Day of the Extraordinary General Meeting</i></p>		
<p>Attend EGM at location and time specified on the notice. It is advised to arrive in advance to ensure the location is ready in order to prevent any delay during the meeting.</p>		
<p>Is there an attendance sheet? Is so has this been signed? For an electronic meeting, where permitted, have a log off all persons on the audio or visual platform.</p>		
<p>Has the quorum of members required been met when the meeting begins?</p> <p>Unless the constitution provides otherwise there should be a minimum of 2 members present.</p>	<p>S.182 CA2014</p>	

<p>Subject to the constitution stating otherwise, If the quorum is not present within 15 minutes from the start time of the meeting then, the meeting will be adjourned to sometime in the next week at the same location (or such other time or place as the Directors determine).</p> <p>If at the adjourned meeting, the quorum isn't present within half an hour of the time set, the members present are a quorum.</p>	<p>S.182(5) CA2014</p>	
<p>Has a Chairman been elected for the meeting? If not; the Chairperson of the board of Directors acts as the Chairman.</p> <p>If the elected Chairman is not present within 15 minutes the Directors need to elect a Chairman. If the Directors do not elect a Chairman, the members can elect one from the members present.</p>	<p>S.187 CA2014</p>	
<p>At commencement has the Secretary read the notice and ensured a quorum is present?</p>		
<p>Have the minutes of previous meeting been presented?</p>		
<p>Are the minutes of the meeting being kept?</p> <p>Often this is done by the Secretary or an appointed person.</p>		
<p>Are all items on the agenda being covered? The chair should ensure the agenda is being followed.</p> <p>Hold a vote dealing with the business of the meeting and ensure a count is done in relation to a show of hands. If a poll is carried out - ensure everyone's voting rights are ascertained and check the results based on the votes and the voting rights of each share class as applicable. Ensure sufficient stationary etc. is made available.</p>		
<p>Has the voting method been explained to those attending with the ability to vote?</p>	<p>S.188 CA 2014</p>	
<p>On a show of hands each member present has an equal vote unless the rights in the constitution or shareholders agreement states otherwise. Where joint holders, the vote of the person first named on the share certificate will be taken as the vote for the joint holders.</p> <p>If shares have not been paid, the member is not entitled to vote where the money has been called by the company. For a CLG as per S.1206 CA 2014 no member can vote where they have not paid all sums owed to the Company</p> <p>Even where a show of hands has been done, the following can still demand a poll. If a poll is demanded is it from:</p> <ul style="list-style-type: none"> - the chairperson; or - at least 3 members present in person or proxy; or - any member which hold 10% or more of the voting rights; or 	<p>S.188 CA2014</p> <p>S.1206 CA 2014</p> <p>S.189 CA 2014</p>	

a member or members holding shares in the company concerned conferring the right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right. (not applicable for a CLG)		
Members are not entitled to vote at an EGM, unless all calls or sums payable in relation to their share has been paid.	S.188(6) CA2014	
Has time been given for those present to query anything brought up in the meeting?		
An ordinary resolution is passed by a majority of the members with voting rights.	S.190 CA 20144	
If a special resolution is to be passed, it requires at least 75% of the votes at the general meeting or if applicable as specified by constitution or shareholders agreement.	S.191 CA2014 S.193 CA2014	
<i>Closing the Extraordinary General Meeting</i>		
In closing out the EGM, have all documents been collected?		
Have the signed minutes been placed in the company's minute book? The minute book cannot be stored electronically.	S.214(2) CA2014	
If any documentation needed for the CRO have been signed, these should be filed with the CRO by the required person within the time frame - has it been done?	S.198 CA 2014	
If minutes are purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, then this shall be evidence of the proceedings. Where minutes have been made in relation to general and extraordinary meetings, then, until the contrary is proved— (a) the meeting shall be deemed to have been duly held and convened; (b) all proceedings had at the meeting shall be deemed to have been duly had; and (c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.	S.199(3)(4) CA 2014	
Are the minutes being entered into the minute book as soon as is possible after the meeting?	S.166(2) CA2014	
EGM requested by members		

Members holding not less than 50% of paid up share capital and which have the right to vote at general meetings may convene an EGM unless the Constitution states otherwise.	S.178(1)(2) CA2014	
Does the requisition from the members state the objects of the meeting?	S.178(4) CA2014	
Has the requisition been signed by requisitioner?		
Has the requisition for a meeting been deposited at the companies registered office?		
Within 21 days of receipt, have the Directors convened the meeting?	S.178(5) CA2014	
If yes, has the meeting been held within 2 months for the date of deposit of the requisition?		
<i>Follow checklist of EGM above.</i>		

Directors Meeting Checklist

www.CompaniesAct2014.com

The Ultimate Companies Act 2014 Toolkit
for Accountants & Professional Advisors

Directors Meetings Checklist

Name of procedure: Directors Meetings

Client:

Prepared by:

Reviewed by:

Signed:

Date:

Checklist	Legislative Reference	Complete
Directors Meetings		
Has the company constitution been reviewed for any bespoke provisions for Directors meetings?	S.160 CA2014	
Has a Director or Secretary as requested by the Director called a meeting?	S.160(3) CA2014	
Has reasonable notice been given to the Directors? Does the Constitution state a notice period?	S.160(4) CA2014	
Has an agenda been circulated to the directors? While not required it may be best practice.		
Is a quorum of Directors present? This may be fixed by the Directors or the Constitution, if not the quorum is 2. Where the company has a sole Director the quorum is 1. DAC or CLG may not avail of a quorum of 1 as they cannot be a sole Director company.	S.160(6) CA2014 S.985 & 1194 CA 2014	
Have the Directors elected a chair for the meeting? If the chair is not present within 15 minutes, the directors present may choose one of the directors present to be the chair for the meeting. The importance of the chair is that they have a casting vote in deadlock.	S.160(8) CA2014 S.160(2) CA2014	
Have the minutes of previous meeting been presented?		
Are the minutes of the meeting being kept? This is a requirement of the Act. Often this is done by the Secretary or an appointed person.	S.161 CA2014	

<p>Do the minutes cover the following;</p> <ul style="list-style-type: none"> • Appointment of officers, being the Director(s) or Secretary, of the meeting • Names of the Directors present or any committee of Directors • Details of all resolutions agreed at the meeting 	<p>S.166 CA2014 S.2 CA2014</p>	
<p>Has the company constitution been checked to confirm if automatic resignation occurs for a director who has not declared their interest in a contract being proposed?</p>	<p>S.231 CA 2014</p>	
<p>Has the company constitution been checked to access if it prevents a director from voting on contracts where they have an interest in? Was this interest disclosed in the minutes and if so has the directors interests register been updated.</p>	<p>S.169 CA 2014</p>	
<p>Has the Directors disclosed their interest to the meeting and has written confirmation of the interest in shares/debentures in the company been received as is required by S.265 CA 2014.</p>	<p>S.231(1)(2) CA2014</p>	
<p>Has any Directors interests declared at the meeting been included in the register?</p>	<p>S.231(6) CA2014</p>	
<p>Has time been given for those present to query anything brought up in the meeting?</p>		
<p>Has the voting method been explained to those attending with the ability to vote (see below)?</p>		
<p>The Voting is based on a majority with the Chairman casting the vote unless otherwise specified in the constitution.</p> <p>If the voting was equal the Chair shall have the second or casting vote (unless the Constitution states otherwise).</p>	<p>S.160(2) CA2014</p>	
<p>At the close of the meeting has the chair signed the minutes?</p>	<p>S.166(3) CA2014</p>	
<p>Where minutes of a director meeting have been made, the proceedings at any meeting of directors or committee of directors, then, until the contrary is proved—</p> <p>(a) the meeting shall be deemed to have been duly held and convened;</p> <p>(b) all proceedings had at the meeting shall be deemed to have been duly had; and</p> <p>(c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.</p>	<p>S.166 CA 2014</p>	
<p>Have the items agreed in the meeting been subsequently actioned (e.g. where it relates to filing)?</p>		

Have the minutes been inserted into the minute book of the company?	S.161 CA2014	
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OmniPro Quick Guide Series

Annual Compliance - Quick Guide

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Annual Compliance Quick Guide

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The Annual Compliance Procedures under Companies Act 2014

Key Sections of the Legislation

- Directors Meetings
 - S.160 Meetings of directors and committees
 - S.161 Supplemental provisions about meetings
 - S.166 Minutes of proceedings of directors
- Annual General Meetings
 - S.175 – Annual General Meeting
 - S.176 – The location and means for holding general meetings
 - S.180 – Persons entitled to receive notice of general meetings
 - S.181 – Notice of general meetings
 - S.182 – Quorum
 - S.183 – Proxies
 - S.186 – The business of the AGM
 - S.187 – Proceedings at meetings
 - S.188 – Votes of members
 - S.191 – Resolutions – ordinary and special resolutions
 - S.193 – Unanimous written resolutions
 - S.194 – Majority written resolutions
 - S.196 – Single member companies

Directors Meetings

S.160 Meetings of directors and committees deals with the meetings of directors and committees. While this section replicates many of the provisions contained in the old Table A of the 1963 Act it also contains some of the recommendations made by the Company Law Review Group.

Key Elements

- Any director can call a meeting of the directors
- The secretary can call a meeting of the directors at the direction of any director
- Voting is based on a simple majority with the chairman having the casting vote
- Reasonable notice needs to be given of any meeting held
- The quorum for directors meetings can be fixed by directors but is a minimum of 2 directors except in a sole director company
- The directors should elect a chairperson for meetings and this person may be elected for a period of time rather than just a meeting. If the elected chairperson is not present within 15 minutes of the commencement of a meeting the directors may elect a chair from those in attendance
- The directors can establish committees

Impact on Annual Compliance

- Before the convening of any AGM there should be a meeting of the directors. The convening of this directors meeting needs to be done in accordance with the requirements of Section 160 and the meeting needs to be held in accordance with S.160

S.161 Supplemental provisions about meetings contains supplemental provisions about meetings and allows directors pass written resolutions. This means that if all directors of a company or all members of a committee sign a resolution, the resolution is the equivalent of a decision being reached in a meeting without the formal meeting being held.

Key Elements

- A resolution signed by all the directors of a company is valid as if it had been passed at a meeting of the directors
- If some directors are not permitted to vote on a resolution a written resolution may be passed by a minority of members
- The directors do not need to all sign the same piece of paper to pass the resolution. Copies on separate pieces of paper will have the same effect.
- Directors may hold meetings by conference call or other electronic forum as long as every director can speak and can be heard
- Directors can vote on contracts in which they have an interest

Impact on Annual Compliance

- Directors can hold conference call meetings or online meetings to satisfy their requirements in terms of approving the financial statements
- Directors can dispense with the holding of meetings if they pass a written resolution signed by all directors

S.166 Minutes of proceedings of directors sets out the requirement for minutes to be kept in relation to directors meetings. The minutes of the meetings should be kept in the company register in accordance with S.199 and S.215.

Key Elements

- Directors meeting minutes should contain details of the appointment of officers, the names of directors present and details of all resolutions and proceedings at the meeting
- The minutes of the meetings should be entered in the registers once the meeting has been held or the resolution passed
- Where minutes have been made the proceedings of the meeting shall be deemed to be valid unless proved to the contrary
- The ODCE may access on demand the the minute books of a company and take copies of the minutes if they wish
- Failure to keep minutes or give the ODCE access is a Category 4 offence

Impact on Annual Compliance

- The minutes of the directors meeting should be properly recorded and retained as part of the registers of the company.

The Minimum Required in terms of the Format of Directors Meeting Minutes

1. The appointment of officers of the meeting
2. The names of the directors present
3. Details of all resolutions agreed at the meeting

Annual General Meeting

S.175 Annual General Meeting sets out the process, the requirements and the formalities that companies need to follow in conducting their AGMs. While companies still need to hold AGMs, the big change in respect to AGMs is that under S.175(3), LTD companies now have the option of dispensing with the requirement to physically hold a meeting in favour of a written process. This process is similar to the old exemption from holding AGMs for single member companies.

Key Elements

- AGMs need to be held no more than 15 months apart
- AGMs need to be held within 18 months of incorporation of the company
- The AGM can be dispensed with by single member companies and LTD companies by following the process set out in S.175(3)
- Additional matters that need to be dealt with in the AGM can also be dealt with by the written resolution process
- The ODCE may direct a company to convene an AGM if a member makes an appropriate application to the Director
- If meetings are not held in accordance with the requirements of the section it will be a category 3 offence for the company and any officer of it

Impact on Annual Compliance

- The process for availing of the exemption in relation to LTD companies availing of the exemption from holding an AGM involves the members of the company passing a unanimous written resolution under S.193.
 - This resolution needs to be signed by all members entitled to attend the AGM
 - In the resolution they need to acknowledge the receipt of the financial statements that would have been laid before the AGM
 - Resolve all matters as would have been resolved at that meeting (ie conduct the business of the AGM in accordance with S.186)
 - Confirm that there is no change proposed in the appointment of the person who is statutory auditor, unless the company has availed of the audit exemption and there is no statutory auditor.
- For all other company types that are not single member companies AGMs must be held.
- Companies need to ensure that any member's refusal to pass the unanimous written resolution does not result in the company breaching the timing requirements of the company to hold an AGM.

S.176 The location and means of holding an Annual General Meeting allows for companies to hold their AGMs and EGMs outside the state provided all members give their consent in writing.

Key Elements

- AGMs & EGMs can be held outside the state
- If all members do not give written consent to the meeting being held outside the state the company must ensure that members can attend by technological means and fully participate in the meeting without leaving the state.
- Meetings can be held in more than one venue provided that technology allows the members in both locations participate in the meeting.

Impact on Annual Compliance

- If meetings are being held outside of the state the directors need to ensure that the members have given the appropriate consent and made alternate arrangements in relation to the provision of technological options if not

S.180 Persons entitled to notice of general meetings gives a statutory right to the persons entitled to attend a general meeting receive notice of the meeting.

Key Elements

- Persons entitled to notice
 - Members
 - Personal representatives of deceased members who would otherwise be entitled to vote at the meeting

- The bankruptcy assignee of bankrupt members
- The directors and the secretary of the company
- Statutory auditors have a right to attend and receive all notices and communication a member is entitled to receive
- Only the persons entitled to receive notice as set out above are entitled to receive notices of general meetings unless the constitution of the company provides otherwise.

Impact on Annual Compliance

- It is critical that the company ensures that anyone that is entitled to receive notice does so.

S.181 Notice of general meetings deals with the notice periods for meetings and how those entitled to attend should be notified.

Key Elements

- 21 days notice of an AGM or an EGM where a special resolution is being passed
- 7 days notice for other EGMs
- Consent to short notice permitted if all members entitled to attend agree to notice period shorter than required period along with the statutory auditor (unless the company has availed of the audit exemption)
- If posted to the registered address of the member the notice of a meeting is deemed to have been received 24 hours after the notice being posted
- The period of notice will not include either the day on which the notice is served or the day of the meeting
- The notice will detail
 - The place, date and time of the meeting
 - The general nature of the business to be transacted
 - If there is a special resolution the proposed text of that resolution
 - Proxy entitlements and the location and time by which the proxy should be received
- Accidental omission to give notice will not invalidate the proceedings at the meeting

Impact on Annual Compliance

- Notice of meetings needs to be given in the appropriate form within the appropriate timelines for the proceedings of the meetings to be valid unless the members agree to short notice
- Consents to short notice need to be appropriately signed by all members entitled to vote and the statutory auditor (if applicable)

S.182 Quorum deals with the requirement to have a minimum number of members present for the business of the meeting to proceed. Unless the company's constitution specifically provides otherwise there should be a minimum of 2 members present as the quorum for a meeting

Key Elements

- The required quorum must be present when the meeting proceeds to deal with the business of the meeting
- 2 members is the quorum unless the company's constitution states otherwise except for single member companies where the quorum is only one person
- Unless the constitution specifically provides otherwise if a quorum is not present within 15 minutes of the requirement for the quorum the meeting will either be dissolved or re-convened in a week's time depending on who convened the meeting

Impact on Annual Compliance

- Failure to have a quorum may invalidate the business transacted at the AGM

S.183 Proxies and S.184 Form of Proxy facilitates members who are entitled to attend general meetings to appoint another person to attend in their place as a proxy and vote instead of them.

Key Elements

- Proxies have the same right as members in terms of speaking and voting if the vote is by way of a show of hands
- Any member may only have one proxy for any meeting unless the constitution provides otherwise
- The form of proxy is a written document that must meet certain criteria and contain certain specific information as set out in S.184
- Proxies must be delivered within 48 hours of the commencement of the meeting but the companies constitution can provide for shorter periods of delivery
- Proxies may be deemed invalid if they are not in the correct format or delivered within the appropriate time frames
- Proxies may now be delivered electronically
- It is a Category 3 offence not to issue proxies to all members or not to have a list of proxies if requested in writing

Impact on Annual Compliance

- Ensure that proxies are issued in an appropriate form and that their receipt is captured and recorded in accordance with either the Act or the company's constitution

S.185 Representation of Bodies Corporate at Meetings deals with how members that are body corporates may be represented at meetings.

Key Elements

- The board of directors of the corporate member may pass a resolution authorising an authorised person to act as the company's representative.
- There is a new option whereby the chairman of a meeting may request an authorised person to produce evidence of their authority and authorisation.

Impact on Annual Compliance

- If bodies corporate are represented at meetings, ensure that their authorised person has been appropriately authorised to vote and act on behalf of the entity like any other member.

S.186 The Business of the AGM is a new section that sets out what the agenda and business transacted at an AGM should include.

The Meeting Agenda

- To be covered in all cases
 - the company's statutory financial statements and the report of the directors should be considered including the auditor or accountants report
 - members review the company's affairs;
- To be covered if the company's constitution does not remove the requirement
 - declare a dividend as recommended by the directors
 - authorise the directors to approve the remuneration of the statutory auditors (if any)
- To be covered if the company's constitution has been modified to require it
 - the election and re-election of directors;
 - the remuneration of directors
- To be covered unless the company has availed of the audit exemption
 - the appointment or re-appointment of statutory auditors; and

Impact on Annual Compliance

- Review the companies constitution to assess whether any of the bespoke provisions are invoked and modify the Agenda accordingly
- Ensure that all required AGM business is included on the AGM Agenda and dealt with as required
- Depending on the structure of the entity and the level of governance required consider amending the companies constitution to reflect optional or amended provisions in relation to the business of the AGM

S.187 Proceedings at Meetings sets out the proceedings at general meetings and how the business of the meetings should be conducted. All elements of this section may be amended by companies constitution if it is modified or tailored

Key Elements

- Chairperson of the board acts as chairman but if there is no chairperson or they are not present within 15 minutes of the meeting commencing the directors need to elect a chair.
- If the directors do not elect a chair the members may elect one from the members present.
- Meetings may be adjourned once the quorum is present and the members direct the chairperson and there are specific rules in relation to what business can be discussed at the adjourned meeting
- Voting may be done by way of a show of hands and the chairperson may declare whether the resolution has been carried or not. There is no requirement for proof of the number of votes other than the minutes of the meeting
- The chairperson has a second casting vote in the case of a tie vote

Impact on Annual Compliance

- Ensure that the chairperson of the meeting is appropriately appointed and that voting is done in accordance with the Act

S.188 Votes of Members deals with how members vote and who is entitled to vote, with all subsections of this section having the ability to be amended by companies constitution if it is appropriately modified or tailored.

Key Elements

- On a show of hands each member present has a vote
- On a poll every member will have one vote for each share of for each €15 of stock held
- Members are not entitled to vote at an AGM unless all calls or sums payable in relation to shares have been paid

Impact on Annual Compliance

- When polling the members voting strength will need to be assessed

S.191 Resolutions deals with ordinary resolutions and special resolutions which impacts on the process and meeting procedures for the passing of various different types of resolutions.

Key Elements

- An ordinary resolution is passed by a simple majority
- A special resolution is a resolution which requires 21 days notice and requires at least 75% of the votes cast by members, either in person or by proxy at the general meeting
- There is an option whereby members can pass a special resolution without 21 days when certain criteria are met

- The terms of a special resolution may be amended at the meeting by passing an ordinary resolution
- Written resolutions as defined within the section refer to the process of passing resolutions in accordance with S.193 (unanimous written resolutions and majority resolutions)

Impact on Annual Compliance

- Appropriate notice needs to be given depending on the business being conducted at the general meeting and whether they require ordinary or special resolutions
- When polling the members voting strength will need to be assessed to ensure that appropriate percentages are attained to confirm the passing of the relevant resolutions

S.193 Unanimous Written Resolutions provides for passing resolutions by getting all members to approve the resolution in writing rather than holding a general meeting to pass the resolution. This gives small companies with small numbers of members greater flexibility and speed in making decisions and operating the company.

Key Elements

- A resolution whether special or otherwise if signed in writing by all members entitled to vote shall be valid in the same way as if the decision was reached in a properly convened meeting.
- The written resolution may consist of several individual documents in a like form signed by one or more members giving maximum flexibility and allowing virtually instantaneous approval using electronic means of communication.
- The effective date for a written resolution is the date the last member signed the resolution.
- If everyone does not sign the same original document (contemporaneously), the individual documents upon which the passing of the resolution is based must be submitted to the company within 14 days of passing the resolution.
- If the resolution is not passed based on members contemporaneously signing the resolution the company will notify members of the passing of the resolution within 21 days of getting all the documents relating to the passing of the resolution
- It is a Category 4 offence for the company not to notify members of the passing of the resolution if not passed by contemporaneous signing of the resolution.
- Written resolutions should be retained as if they represent the minutes of a meeting and entered into the appropriate register
- S.191 specifically does not apply to the resolution to remove a director or the statutory auditor and they are dealt with in separate sections of the legislation

Impact on Annual Compliance

- If unanimous written resolutions are being used the company must get all the documents signed within 14 days if everyone did not sign the same document
- If unanimous written resolutions are used to make a decision and the members did not contemporaneously sign the resolution the company needs to notify the members within 21 days or it is a category 4 offence
- Written resolutions need to be retained as part of the Register of Minutes

S.194 Majority Written Resolutions This new section provides for passing resolutions by getting the requisite percentage of members to approve the resolution in writing rather than holding a general meeting to pass the resolution. While similar to S.193 in relation to unanimous written resolutions this section differs, as there is a time delay of 7 or 21 days depending on the resolution type in absence of a unanimous approval and instant effect. Previously only unanimous written resolutions were permitted and this section will effectively dispense with the requirement for EGMs for many small companies

Key Elements

- Ordinary resolutions are passed if a majority of members sign the resolution provided everyone who would have been entitled to vote at a general meeting has been circulated by the directors or the person proposing .
- An ordinary written resolution requiring 50% of the members to approve it shall be deemed to be passed 7 days after the last member signing it
- Special resolutions are passed if a at least 75% of members sign the resolution provided everyone who would have been entitled to vote at a general meeting has been circulated by the directors or the person proposing .
- An ordinary written resolution requiring 75% of the members to approve it shall be deemed to be passed 21days after the last member signing it
- The written resolution may consist of several individual documents in a like form signed by one or more members giving maximum flexibility and allowing virtually instantaneous approval using electronic means of communication.
- The effective date for a written resolution is the date the last member signed the resolution.

Impact on Annual Compliance

- Upon receipt of the written resolutions the company needs to wait the appropriate period of time before acting on the resolution as the 7 day and 21 day waiting periods provide protection and a moratorium for dissenting shareholders to challenge the resolution if they wish.

S.196 Single Member Companies – absence of need to hold general meetings This section re-enacts regulation 9 of the EC (Single Member Private Companies) Regulations 1994 and provides that single member companies do not need to hold general meetings. There now can be single member companies despite the constitution of the company providing for 2 members. The only time a single member company does need to have a general meeting is when the statutory auditors are being removed. Single member companies making decisions just need to draw up the decision of the single member and notify the company in writing of the decision.

Audit Exempt Multi-Member Company Written Process Draft Minutes of a Meeting of Directors

Company Name Limited

Minutes of a Meeting of the Board of Directors held at Registered Office Address on
day of 20XX at a.m./p.m.

Present: Name (Chairperson)
Name

In Attendance:

Chairperson

It was resolved that Name be appointed Chairperson for the purposes of this meeting.

Constitution of the meeting

The Chairperson noted that notice of the meeting had been given to all Directors and that a quorum of Directors was present. It was noted that pursuant to Section 137 of the Companies Act 2014, at least one of the directors of the Company is resident in the EEA and that no director present held more than 25 directorships for the purposes of Section 142(1) of the Companies Act 2014 and was therefore entitled to be included in the quorum and vote on all resolutions tabled at the meeting.

It was noted that apologies were received from Name.

Disclosure of Directors' Interests

It was noted that each of the Directors had declared their interest in those matters to be dealt with at the meeting for the purpose of Section 231 of the Companies Act 2014.

Minutes of the Last Meeting

The Chairperson presented to the meeting the minutes of the last meeting held on Date. The minutes were noted and approved as an accurate record of the last meeting.

Annual Financial Statements

The Chairperson presented to the meeting the Directors' report and the financial statements of the Company for the period/year ended Date.

Having carefully considered the contents contained therein, **it was resolved** that the Directors' report and the financial statements be approved and that they be signed on behalf of the Board of Directors by any two Directors.

Review by the members of the company's affairs

The Chairman noted the requirement pursuant to Section 186(b) for the members to review the company's affairs as part of the business of the annual general meeting. He produced to the meeting a summary document of the company's affairs to assist the members in this regard. The directors discussed and approved the document. **It was resolved** that the document be circulated to the members with the financial statements.

**Audit Exempt Multi-Member Company Written Process
Draft Minutes of a Meeting of Directors**

Dividends (Save where the Constitution of the company provides otherwise)

It was agreed to recommend to the members that the proposed dividends as stated in the financial statements for the year ended/period ended be approved.

Directors Remuneration (Save where the Constitution of the company provides otherwise)

It was agreed to recommend to the members that Directors remuneration be paid to the Directors in respect of remuneration due for the year ended/period ended Date.

Election and Re-Election of Directors (Where the Constitution so provides)

It was agreed to recommend to the members that Name be elected/re-elected as a director of the company.

Audit Exemption

The Chairperson noted that the Company intends to avail of the audit exemption in respect of the financial year DATE provided the Company satisfies the conditions specified in Section 358 (non-group)/359 (group)/365 (dormant company) of Companies Act, 2014.

After a detailed discussion, **it was resolved** that the Directors are of opinion that the Company will satisfy the conditions specified in Section 358 (non-group)/359 (group)/365 (dormant company) of Companies Act, 2014, as amended, in respect of the financial year end DATE and that the Company will avail itself of the exemption in respect of that financial year.

Annual General Meeting

The Chairman noted that the members had waived the requirement to hold an AGM in accordance with Section 175(3) and (4) of the Companies Act 2014.

Any Other Business

There being no further business, the meeting then concluded.

Chairperson

Date

**Audit Exempt Multi-Member Company Written Process
Multi-Member Company Resolving Business When AGM has been Dispensed With**

Company Name Limited

**Written Resolution of the Members of the Company pursuant to Section 193 of
the Companies Act 2014, and the Constitution of the Company**

We the undersigned being the all the members for the time being entitled to attend and vote at General Meetings of the Company, pursuant to Section 175 (3) and (4) hereby resolve:-

1. that we have received and considered the Directors' Report and financial statements of the Company for the period/year end 20XX;
2. that we have reviewed the company's affairs;
3. that the final dividend as proposed by the Directors be and is hereby approved; (Save where the company's constitution provides otherwise)
4. that in accordance with the Constitution of the Company Name be and is hereby elected/re-elected a director of the Company; (Where the company's constitution so provides)
5. that the Directors be authorised to fix the remuneration of the Directors and the amount as provided for in the financial statements for the year/period ended Date in respect of Directors' remuneration be and is hereby approved. (Where the company's constitution so provides)

Dated:

Name

Name

**Audit Exempt Multi Member AGM Draft
Minutes of a Meeting of Directors
Please Edit Accordingly**

Company Name Limited

Minutes of a Meeting of the Board of Directors held at Registered Office Address on
day of 20XX at a.m./p.m.

Present: Name (Chairperson)
Name

In Attendance:

Chairperson

It was resolved that Name be appointed Chairperson for the purposes of this meeting.

Constitution of the meeting

The Chairperson noted that notice of the meeting had been given to all Directors and that a quorum of Directors was present. It was noted that pursuant to Section 137 of the Companies Act 2014, at least one of the directors of the Company is resident in the EEA and that no director present held more than 25 directorships for the purposes of Section 142(1) of the Companies Act 2014 and was therefore entitled to be included in the quorum and vote on all resolutions tabled at the meeting.

It was noted that apologies were received from Name.

Disclosure of Directors' Interests

It was noted that each of the Directors had declared their interest in those matters to be dealt with at the meeting for the purpose of Section 231 of the Companies Act 2014.

Minutes of the Last Meeting

The Chairperson presented to the meeting the minutes of the last meeting held on Date. The minutes were noted and approved as an accurate record of the last meeting.

Annual Financial Statements

The Chairperson presented to the meeting the Directors' report and the financial statements of the Company for the period/year ended Date.

Having carefully considered the contents contained therein, **it was resolved** that the Directors' report and the financial statements be approved and that they be signed on behalf of the Board of Directors by any two Directors.

Review by the members of the company's affairs

The Chairman noted the requirement pursuant to Section 186(b) for the members to review the company's affairs as part of the business of the annual general meeting. He produced to the meeting a summary document of the company's affairs to assist the members in this regard. This document consisted primarily of the Financial Statements / summary of the financial performance based on the financial statements and the Directors report. The directors discussed and approved the document. *It was resolved* that the document be circulated to the members with the financial statements and notice convening the AGM.

**Audit Exempt Multi Member AGM
Draft Minutes of a Meeting of Directors**

Dividends (Save where the Constitution of the company provide otherwise)

It was agreed to recommend to the members that the proposed dividends as stated in the financial statements for the year ended/period ended be approved.

Directors Remuneration (Save where the Constitution of the company provide otherwise)

It was agreed to recommend to the members that Directors remuneration be paid to the Directors in respect of remuneration due for the year ended/period ended Date.

Election and Re-Election of Directors (Where the Constitution so provides)

It was agreed to recommend to the members that Name be elected/re-elected as a director of the company.

Audit Exemption

The Chairperson noted that the Company intends to avail of the audit exemption in respect of the financial year DATE provided the Company satisfies the conditions specified in Section 358 (non-group)/359 (group)/365 (dormant company) of Companies Act, 2014.

After a detailed discussion, **it was resolved** that the Directors are of opinion that the Company will satisfy the conditions specified in Section 358 (non-group)/359 (group)/365 (dormant company) of Companies Act, 2014, as amended, in respect of the financial year end DATE and that the Company will avail itself of the exemption in respect of that financial year.

Annual General Meeting

The Chairman noted that the members had waived the requirement to hold an AGM in accordance with Section 175(3) and (4) of the Companies Act 2014.

Or

It was resolved that the Annual General Meeting of the Company be convened as soon as is practicable and that the Secretary be instructed to convene such a meeting and to send notice of the meeting to all those entitled to receive the same.

Any Other Business

There being no further business, the meeting then concluded.

Chairperson

Date

**Audit Exempt Multi Member AGM Draft
Consent to Short Notice
Please Edit Accordingly**

Company Name Limited

Consent to Short Notice

To the Directors

We, the undersigned, being all the/sole member(s) of the above-named Company entitled to attend and vote at general meetings of the Company do hereby consent to the holding of an Annual General Meeting via Electronic Platform on the _____ day of 20XX notwithstanding that the meeting is called by shorter notice than that specified in Section 181(1) of the Companies Act, 2014 and the Constitution of the Company and do hereby agree that copies of any documents required to be sent in accordance with Section 338(1) of the Companies Act, 2014 shall be deemed to have been duly sent notwithstanding that they are sent less than 21 days before the date of the said meeting.

Dated: _____ 20XX

Name

**Audit Exempt Multi Member AGM Draft
 Proxy Form - Please Edit Accordingly**

Company Name Limited

I, Name of Member, of Address of Member,

being a member of Company Name Limited (the "Company") hereby appoint:

_____ (Insert full name of appointee)

***or** failing him/her, hereby appoint: _____

***or** failing him/her, hereby appoint: _____

as my proxy, to attend, speak and vote for me and on my behalf at the Annual General Meeting of the Company to be held at Registered Office Address/ via Electronic Platform to be held on the day of _____ 20XX at _____ a.m/p/m., and at any adjournment thereof.

Ordinary Business	For	Abstain	Against
To receive and consider the Directors' report and the financial statements for the year/period ended Date.			
To review the company's affairs.			
The declaration of a dividend/reduction of dividend (Save where the constitution provides otherwise)			
To elect/re-elect Name and Name as Directors; (Where the company's constitution so provides)			
The remuneration of directors. (Where the company's constitution so provides)			

Signed this _____ day of _____ 20XX

Name of Member

**Audit Exempt Multi Member Physical AGM
Draft Proxy Form**

Notes

1. To be valid, the original proxy form must be completed and deposited at the registered office of the Company (not less than 48 hours before the time for holding of/at any time) before the commencement unless the constitution states otherwise of the meeting or any adjourned meeting thereof.
2. Members may appoint a proxy of their choice. If such an appointment is made, insert the name of the person appointed in the space provided. A proxy need not be a member of the Company.
3. In the case of joint shareholders the vote of the first named person in the register shall be accepted to the exclusion of the votes of the other joint shareholders.
4. In the case of corporation this proxy form must be executed under common seal or under the hand of an officer or attorney of the corporation duly authorised in writing.
5. Indicate, by inserting X in the appropriate space, the manner in which the proxy is to vote. Unless so indicated, the proxy shall vote as it sees fit.

**Audit Exempt Multi Member AGM Draft
AGM Minutes - Please Edit Accordingly**

Company Name Limited

Minutes of an Annual General Meeting of the Company held at Registered Office
Address/ via Electronic Platform on the day of 20XX
at a.m./p.m.

Present: Name
 Name

In Attendance:

Chairperson

It was resolved that Name be appointed Chairperson for the purposes of this meeting.

Constitution of the meeting

It was noted that notice of the meeting had been given to all persons entitled to receive same and that a quorum was present.

or

It was noted that all the members entitled to attend and vote at general meetings had consented to the holding of the meeting notwithstanding that less than the Statutory period of notice had been given.

Minutes of the Last Meeting

The Chairperson presented to the meeting the minutes of the last meeting held on Date. The minutes were noted and approved as an accurate record of the last meeting.

Electronic Platform

The Chairperson noted that in accordance with the provisions in Companies (Miscellaneous Provisions) (Covid-19) Act 2020 the Meeting was being held via Electronic Platform. That those entitled to vote had supplied the Secretary with their unique identification code in order to confirm their voting power.

Annual Financial Statements

The Chairperson presented to the meeting the Directors' report and the financial statements of the Company for the period/year ended Date. The Chairperson noted that the Company had availed of the audit exemption as the Company fulfilled the conditions specified in Section 358 (non-group)/359 (group)/365 (dormant company) of the Companies Act, 2014.

After a careful consideration of the contents therein, **it was resolved** "that the Directors' report and the financial statements for the period/year ended Date be received and considered."

Review by the members of the company's affairs

The members reviewed the company's affairs based on the financial statements presented and the directors' report contained. There being no issues identified, it was resolved "that the company's affairs have been duly considered"

Dividends (Save where the company's constitution provides otherwise)

It was resolved "that the proposed dividend as stated in the financial statements for the year/period ended Date be and is hereby approved."
20 of 35

**Audit Exempt Multi Member Physical AGM
Draft AGM Minutes**

Directors Remuneration (Save where the company's constitution provides otherwise)
It was resolved "that the Directors be authorised to fix the remuneration of the Directors and the amount as provided for in the financial statements for the year/period ended Date in respect of Directors' remuneration be and is hereby approved."

Directors Election (Where the company's constitution so provides)

It was resolved "that _____ Name be elected/re-elected as a Director of the Company".
It was noted that the Directors are not required to retire by rotation or be re-elected as a Directors of the Company.

Auditors

The Chairperson noted that the meeting was not required to deal with the reappointment of the Auditors as Name of Auditors have resigned from the office of Auditor pursuant to Section 399(1)(b) of the Companies Act, 2014.

Any Other Business

There being no further business, the meeting then concluded at _____ a.m/p.m.

Chairperson

Date

**Audit Company Multi-Member Written Resolution
Draft Minutes of a Meeting of Directors**

Company Name Limited

Minutes of a Meeting of the Board of Directors held at Registered Office Address on
day of 20XX at a.m./p.m.

Present: Name (Chairperson)
Name

In Attendance:

Chairperson

It was resolved that Name be appointed Chairperson for the purposes of this meeting.

Constitution of the meeting

The Chairperson noted that notice of the meeting had been given to all Directors and that a quorum of Directors was present. It was noted that pursuant to Section 137 of the Companies Act 2014, at least one of the directors of the Company is resident in the EEA and that no director present held more than 25 directorships for the purposes of Section 142(1) of the Companies Act 2014 and was therefore entitled to be included in the quorum and vote on all resolutions tabled at the meeting.

It was noted that apologies were received from Name.

Disclosure of Directors' Interests

It was noted that each of the Directors had declared their interest in those matters to be dealt with at the meeting for the purpose of Section 231 of the Companies Act 2014.

Minutes of the Last Meeting

The Chairperson presented to the meeting the minutes of the last meeting held on Date. The minutes were noted and approved as an accurate record of the last meeting.

Annual Financial Statements

The Chairperson presented to the meeting the Directors' report and the financial statements of the Company for the period/year ended Date.

Having carefully considered the contents contained therein, **it was resolved** that the Directors' report and the financial statements be approved and that they be signed on behalf of the Board of Directors by any two Directors.

Auditors Board Report

The Chairperson presented a report from the Auditors in relation to the audit on the financial statements for the period/year ended Date to the meeting. (A copy of the report is attached hereto). The report was noted and discussed by the Board.

Letter of Representation

The Chairperson presented to the meeting a draft letter of representation addressed to the Auditors of the Company in respect of the financial period/year ended Date. After a detailed discussion on the contents contained therein, **it was resolved** that the contents of the letter of representation presented to the meeting (a copy of which is

**Audit Company Multi-Member Written Resolution
Draft Minutes of a Meeting of Directors**

attached hereto) in respect of the financial period/year ended Date be approved and that any two Directors be authorised to execute the said letter on behalf of the Board of Directors."

Letter of Engagement

The Chairperson presented to the meeting a draft letter of engagement in relation to the appointment of Name of Auditors as Auditors of the Company. After a detailed discussion on the contents contained therein, **it was resolved** "that the contents of the letter of engagement presented to the meeting (a copy of which is attached hereto) in relation to the appointment of Name of Auditors as Auditors of the Company be approved and that any two Directors be authorised to execute the said letter on behalf of the Board of Directors."

Review by the members of the company's affairs

The Chairman noted the requirement pursuant to Section 186(b) for the members to review the company's affairs as part of the business of the annual general meeting. He produced to the meeting a summary document of the company's affairs to assist the members in this regard. The directors discussed and approved the document. *It was resolved* that the document be circulated to the members with the financial statements.

Dividends (Save where the Constitution of the company provides otherwise)

It was agreed to recommend to the members that the proposed dividends as stated in the financial statements for the year ended/period ended be approved.

Directors Remuneration (Save where the Constitution of the company provides otherwise)

It was agreed to recommend to the members that Directors remuneration be paid to the Directors in respect of remuneration due for the year ended/period ended Date.

Election and Re-Election of Directors (Where the Constitution so provides)

It was agreed to recommend to the members that Name be elected/re-elected as a director of the company.

Annual General Meeting

The Chairman noted that the member's had waived the requirement to hold an AGM in accordance with Section 175(3) and (4) of the Companies Act 2014.

Any Other Business

There being no further business, the meeting then concluded.

Chairperson

Date

**Audit Company Multi-Member Written Resolution
Multi-Member Company Resolving Business when AGM has been Dispensed With
Company Name Limited**

**Written Resolution of the Members of the Company pursuant to Section 193 of
the Companies Act 2014, and the Constitution of the Company**

We the undersigned being the all the members for the time being entitled to attend and vote at General Meetings of the Company, pursuant to Section 175 (3) and (4) hereby resolve: -

1. that we have received and considered the Directors' Report, Auditor's report and financial statements of the Company for the period/year end 20XX;
2. that we have reviewed the company's affairs;
3. that the final dividend as proposed by the Directors be and is hereby approved; (Save where the company's constitution provides otherwise)
4. that in accordance with the Constitution of the Company Name be and is hereby elected/re-elected a director of the Company; (Where the company's constitution so provnides)
5. that Name of Auditor be appointed/re-appointed as statutory auditor of the company;
6. that the Directors be authorised to fix the remuneration of the Directors and the amount as provided for in the financial statements for the year/period ended Date in respect of Directors' remuneration be and is hereby approved. (Where the company's constitution so provides)

Dated:

Name

Name

**Audit Company Multi-Member AGM Draft
Minutes of a Meeting of Directors**

Company Name Limited

Minutes of a Meeting of the Board of Directors held at Registered Office Address on
day of 20XX at a.m./p.m.

Present: Name (Chairperson)
Name

In Attendance:

Chairperson

It was resolved that Name be appointed Chairperson for the purposes of this meeting.

Constitution of the meeting

The Chairperson noted that notice of the meeting had been given to all Directors and that a quorum of Directors was present. It was noted that pursuant to Section 137 of the Companies Act 2014, at least one of the directors of the Company is resident in the EEA and that no director present held more than 25 directorships for the purposes of Section 142(1) of the Companies Act 2014 and was therefore entitled to be included in the quorum and vote on all resolutions tabled at the meeting.

It was noted that apologies were received from Name.

Disclosure of Directors' Interests

It was noted that each of the Directors had declared their interest in those matters to be dealt with at the meeting for the purpose of Section 231 of the Companies Act 2014.

Minutes of the Last Meeting

The Chairperson presented to the meeting the minutes of the last meeting held on Date. The minutes were noted and approved as an accurate record of the last meeting.

Annual Financial Statements

The Chairperson presented to the meeting the Directors' report and the financial statements of the Company for the period/year ended Date.

Having carefully considered the contents contained therein, **it was resolved** "that the Directors' report and the financial statements be approved and that they be signed on behalf of the Board of Directors by any two Directors.

Auditors Board Report

The Chairperson presented a board report from the Auditors in relation to the audit on the financial statements for the period/year ended Date to the meeting. (A copy of the report is attached hereto). The report was noted and discussed by the Board.

Letter of Representation

The Chairperson presented to the meeting a draft letter of representation addressed to the Auditors of the Company in respect of the financial period/year ended Date. After a detailed discussion on the contents contained therein, **it was resolved** "that the contents of the letter of representation presented to the meeting (a copy of which is attached hereto) in

Audit Company Multi-Member Physical AGM Draft Minutes of a Meeting of Directors

respect of the financial period/year ended Date be approved and that any two Directors be authorised to execute the said letter on behalf of the Board of Directors."

Letter of Engagement

The Chairperson presented to the meeting a draft letter of engagement in relation to the appointment of Name of Auditors as Auditors of the Company. After a detailed discussion on the contents contained therein, **it was resolved** "that the contents of the letter of engagement presented to the meeting (a copy of which is attached hereto) in relation to the appointment of Name of Auditors as Auditors of the Company be approved and that any two Directors be authorised to execute the said letter on behalf of the Board of Directors."

Review by the members of the company's affairs

The Chairman noted the requirement pursuant to Section 186(b) for the members to review the company's affairs as part of the business of the annual general meeting. He produced to the meeting a summary document of the company's affairs to assist the members in this regard. This document consisted primarily of the Financial Statements / summary of the financial performance based on the financial statements and the Directors report. The directors discussed and approved the document. *It was resolved* that the document be circulated to the members with the financial statements and notice convening the AGM.

Dividends (Save where the Constitution of the company provide otherwise)

It was agreed to recommend to the members that the proposed dividends as stated in the financial statements for the year ended/period ended be approved.

Directors Remuneration (Save where the Constitution of the company provide otherwise)

It was agreed to recommend to the members that Directors remuneration be paid to the Directors in respect of remuneration due for the year ended/period ended Date.

Election and Re-Election of Directors (Where the Constitution so provides)

It was agreed to recommend to the members that Name be elected/re-elected as a director of the company.

Annual General Meeting

The Chairman noted that the members had waived the requirement to hold an AGM in accordance with Section 175(3) and (4) of the Companies Act 2014.

Or

It was resolved that the Annual General Meeting of the Company be convened as soon as is practicable and that the Secretary be instructed to convene such a meeting and to send notice of the meeting to all those entitled to receive the same.

**Audit Company Multi-Member AGM Draft
Minutes of a Meeting of Directors**

Any Other Business

There being no further business, the meeting then concluded.

Chairperson

Date

**Audit Company Multi-Member AGM Draft
Consent to Short Notice - Please Edit
Accordingly**

Company Name Limited

Consent to Short Notice

To the Directors

We, the undersigned, being all the/sole member(s) of the above-named Company entitled to attend and vote at general meetings of the Company do hereby consent to the holding of an Annual General Meeting via Electronic Platform on the _____ day of 20XX notwithstanding that the meeting is called by shorter notice than that specified in Section 181(1) of the Companies Act, 2014 and the Constitution of the Company and do hereby agree that copies of any documents required to be sent in accordance with Section 338(1) of the Companies Act, 2014 shall be deemed to have been duly sent notwithstanding that they are sent less than 21 days before the date of the said meeting.

Dated: _____ 20XX

Name

**Audit Company Multi-Member Physical AGM
Draft Consent to Short Notice**

Company Name Limited

Consent to Short Notice

To the Directors

We, the undersigned, being the Auditors of the Company do hereby consent to the holding of an Annual General Meeting on Date notwithstanding that the meeting is called by shorter notice than that specified in Section 181 of the Companies Act 2014 and the Constitution of the Company.

Dated:

**Name
For and on behalf of
Name of Auditors**

**Audit Company Multi-Member AGM
 Draft Proxy Form - Please Edit Accordingly**

Company Name Limited

I, Name of Member, of Address of Member,

being a member of Company Name Limited (the "Company") hereby appoint:

_____ (Insert full name of appointee)

***or** failing him/her, hereby appoint: _____

***or** failing him/her, hereby appoint: _____

as my proxy, to attend, speak and vote for me and on my behalf at the Annual General Meeting of the Company to be held via Electronic Platform/at Registered Office Address to be held on the day of 20XX at _____ a.m/p/m., and at any adjournment thereof.

Ordinary Business	For	Abstain	Against
To receive and consider the Directors' report, Auditors report and the financial statements for the year/period ended Date.			
To review the company's affairs.			
The declaration of a dividend/reduction of dividend. (Save where the constitution provides otherwise)			
To authorise the directors to approve the remuneration of the Auditors.			
To elect/re-elect Name and Name as Directors. (Where the company's constitution so provides)			
To approve the appointment/re-appointment of Name as statutory auditors of the company.			
The remuneration of directors. (Where the company's constitution so provides)			

Signed this _____ day of _____ 20XX

Name of Member

**Audit Company Multi-Member Physical AGM
Draft Proxy Form**

Notes

1. To be valid, the original proxy form must be completed and deposited at the registered office of the Company (not less than 48 hours before the time for holding of/at any time) before the commencement unless the constitution states otherwise of the meeting or any adjourned meeting thereof.
2. Members may appoint a proxy of their choice. If such an appointment is made, insert the name of the person appointed in the space provided. A proxy need not be a member of the Company.
3. In the case of joint shareholders the vote of the first named person in the register shall be accepted to the exclusion of the votes of the other joint shareholders.
4. In the case of corporation this proxy form must be executed under common seal or under the hand of an officer or attorney of the corporation duly authorised in writing.
5. Indicate, by inserting X in the appropriate space, the manner in which the proxy is to vote. Unless so indicated, the proxy shall vote as it sees fit.

**Audit Company Multi-Member Physical AGM
Draft AGM Minutes**

Directors Remuneration (Save where the company's constitution provides otherwise)

It was resolved "that the Directors be authorised to fix the remuneration of the Directors and the amount as provided for in the financial statements for the year/period ended Date in respect of Directors' remuneration be and is hereby approved."

Directors Election (Where the company's constitution so provides)

It was resolved "that Name be elected/re-elected as a Director of the Company".

It was noted that the Directors are not required to retire by rotation or be re-elected as a Directors of the Company.

Auditors

It was resolved "that Name of Auditors be re-appointed as auditors of the Company until conclusion of the next general meeting at which the Accounts are considered.

It was further resolved "that the Directors be authorised to fix the remuneration of the Auditors."

Any Other Business

There being no further business, the meeting then concluded at _____ a.m/p.m.

Chairperson

Date

Practical Company Law Opportunities Checklist

www.CompaniesAct2014.com

The Ultimate Companies Act 2014 Toolkit
for Accountants & Professional Advisors

Practical Company Law Opportunities Checklist

Client:

No.	Details	Comment
General Information		
1.	<p>Review the register of the Company to assess if it is up to date?</p> <p>If this is not up to date, inform the client that they are required to maintain a register under Section 216 CA 2014. Inform them, that failure to maintain the register is a category 3 offence (Section 169 CA 2014). The registers that must be maintained and kept up to date are:</p> <ul style="list-style-type: none"> - Register of members; - Register of directors and secretaries (S.169 CA 2014) - Register of directors and secretaries' interests (S.267 CA 2014) - Minute books (Section 166 CA 2014) 	
2.	Is the client due to obtain bank financing in the near future – if so, advise on the need to update the Constitution to Companies Act 2014 so as to prevent delays with drawdown of loans.	
3.	Is the company late with its annual return? If so, advise the client of the possibility to go to the Courts to extend the annual return filing deadline so as to prevent the need for a future audit and prevent the payment of late filing fees.	
4.	Does the client wish to change the year end date of the Company? – If so consider filing a form B83 to extend the period end and assess if the ARD can be extended.	
5.	Has the client any companies which have ceased trading or dormant companies? If so, assess whether it is worthwhile to apply for voluntary strike off (can only be done where the assets and liabilities are less than or equal to €150). Always advise the client that with the voluntary strike off option, the company can be restored by creditors for a period of up to 20 years after the company is dissolved (which compares to just two years where a company is placed into liquidation).	
6.	Assess if the client's company would be better suited to trade through a different structure (e.g. trading through a DAC as opposed to an LTD and vice versa; trading through a DAC as opposed to an LTD and vice versa, trading through an unlimited company as opposed to a Limited Company/DAC; trading through a CLG as opposed to an Ltd or DAC). If so, consider advising the client of the option available to convert under Companies Act 2014 and	

	implementing the procedure.	
7.	Has a not for profit been incorrectly incorporated as a DAC or an LTD but the entity is more suited to operating through a CLG? If so, advise the client of the option to convert to a CLG. This can be implemented by issuing a new share in the entity and ensuring this is not paid. Then the existing paid up shares are redeemed (not the shares can only be redeemed if there is distributable reserves to permit the redemption as is made clear in Section 105 CA 2014) and just prior to this a special resolution is passed to permit the conversion of the company to a CLG.	
8.	Has there been a transfer of shares in the current year? If so, a minute of a directors meeting is required to evidence the approval by the directors of the transfer (Section 166 CA 2014)?	
9.	Has the client a register of beneficial ownership register? If not advise the client of the necessity for such a register and the necessity to file the beneficial owners with the register of beneficial owners. Advise the client of the necessity to keep this register up to date.	
10.	Has the company ceased trading and does the company wish to extract funds/property on liquidation or if dormant, is there a risk of latent liabilities – if so, arrange for the appropriate minutes and resolutions to be prepared for the Company to be placed into members voluntary liquidation.	
11.	Does the entity have different trades within the same company or does it have investments and trades within the same company? If so, is there a wish that these would be segregated for risk management purposes or succession planning purposes? If so, advise even if there are no distributable reserves, then a share for undertaking transaction can be carried out whereby selected trades are transferred out of the company to a new company owned by the same shareholders and in return the shareholders of the existing company are allotted shares in the new Company. If there are no distributable reserves, then advise for the need for a summary approval procedure under Section 202 and 204 CA 2014 for a variation of capital to be performed.	
12.	Has the client: – included incorrect details on a Form B5 submitted to the CRO?; or – incorporated a company where the client has incorrectly shown a large number of ordinary shares issued on the Form A1 therefore resulting in a large debtor balance being included on the balance sheet. If so, advise the client of the ability to correct this error by way of filing a form B42A with the CRO explaining the error and detailing the corrected details (and an updated constitution where it relates to the incorrect number of shares allotted on incorporation).	

13.	Has the client filed a set of financial statements with the CRO which are not in compliance with Company Law or financial reporting standards? If so, advise the client of the ability to file a form B1X to include the corrected set of financial statements with the CRO (note there a number of disclosures to be included in the updated accounts where the client goes down this route).	
14.	Has a client company being struck off the register within 12 months of todays date? If so, advise the client of the ability to restore the company to the register by way of the administrative restoration route by filing a form H1 (note audited accounts will also need to be submitted as well as the late filing fee, however the client has 3 further months to submit the accounts).	
15.	If the client is considering declaring a dividend or does the entity require distributable reserve to affect a restructuring? – if so, advise the client of the possibility of the firm reviewing the reserves in the company, with the objective of identifying the realised reserves/profits so that the client is aware of the max amount of distribution that can be made/declared.	
16.	If the client is considering issuing a new class of shares? If so, advise the client of the implications on the balance sheet i.e. will the shares be classified as debt or equity in the balance sheet?	
17.	Have dividends been declared/paid in the period? If so, minutes need to be put in place to evidence the approval by the directors and if it is a final dividend a resolution must be passed by the members.	
18.	Is the existing shareholder wishing to create a new class of share as a new shareholder is coming on board and the client wishes to be able to declare a dividend on one class of share to the exclusion of the other? If so, advise the client of the possibility to redesignate the existing shares (assuming a special resolution is passed by the members) into an 'A' and 'B' class shares and include in the rights of each class of share, the ability for the directors to declare a dividend on one class of shares to the exclusion of the other.	
19.	Is the client considering selling his shares in the entity? If so, is there an arrangement in place whereby the purchaser will obtain bank financing and as part of this financing the target company has to provide the assets of the company as a guarantee for the loan to be given to the purchaser? If there is, advise the client of the need to perform a summary approval procedure under Section 202 and 203 to permit such a transaction.	
20.	Does a parent of the company prepare consolidated financial statements and would the client prefer not to file the individual company financial statements with the CRO? If so, assess whether the client wishes to put in place a Section 357 CA 2014 guarantee whereby the parent company that prepares the consolidated	

	financial statements guarantees the liabilities both on and off the balance sheet at the year end date. If the client is interest in this route, then if this guarantee is provided, and certain disclosures are included in the consolidated financial statements among other things (See Section 357 CA 2014 for full requirements), then the subsidiary may file the consolidated financial statements of the parent together with the guarantee with the subsidiary company's annual return (B1).	
21.	Has the client made an error on the B1 submitted to the CRO in the past (e.g. incorrect shareholdings, directors etc.)? If so, advise the client of the possibility of submitting a form B1B to correct this previous B1 so that the CRO record is correct.	
22.	Does the client require assistance in running a meeting or do they require assistance on issuance of notice of the meeting, provision of proxies, provision of ballot forms? If so, advise the client of the ability to provide such documents etc.	
23.	Review the reserves of the company – assess if the profit and loss reserves is fully distributable. Is there unrealised profits within this reserve?	
24.	If there is a revaluation reserve, advise if this is distributable where the client is looking to ascertain what distributable reserves exist. Assess how much of this reserve is now realised – a revaluation reserve is usually unrealised until the fair value uplift is depreciated or impaired.	
25.	Review the balance sheet and assess if there is a significant amount of share capital issued or a significant share premium and capital redemption reserve fund? If so - consider advising the client of the fact that the share capital could be reduced in order to create distributable reserves or alternatively used to repay some of the capital to the shareholders (need to consider the tax implications of this). If the repayment is merely a return of the money originally invested by that shareholder on subscription of those shares, then no tax should arise. Follow the procedure in Section 202 and 204 CA 2014 to affect the summary approval procedure.	
26.	Is the client considering transferring shares to children or key employees? If so, are there sufficient shares in issue to allow for a transfer between a number of beneficiaries – if not, consider carry out company secretarial documentation to affect a bonus issue or a sub-division of shares (e.g. the entity has 2 shares in issue but four children, then issue bonus shares from distributable reserves or from a revaluation reserve/a share premium or capital redemption reserve fund – this will require an ordinary resolution).	

27.	Review the balance sheet to assess if bonus shares can be issued without using distributable reserves e.g. utilising a share premium account or capital redemption reserve account or a revaluation reserve.	
28.	Are the directors wanting to provide a loan to the director personally or provide a guarantee for the director – If so, advise of the fact that this is ordinarily not allowed under Section 239 CA 2014. However advise that it may be done where a summary approval procedure under Section 202 and 203 Companies Act 2014 is carried out. Follow the procedure in order to allow such a loan/guarantee. Consider the tax consequences as part of this.	
29.	<p>Would the directors like to provide funding to another company connected to the director which is outside the group if it could be carried out legally under Company Law?</p> <p>If so, advise the directors of the options available and implement the structure accordingly:</p> <ul style="list-style-type: none"> - Have the company that is to be loaned the money issue a golden share (a share that gives the holder of the share the right to appoint and remove the board of directors) to the Company providing the loan/guarantee. Once the golden share is issued (e.g. for €1) then loan of the funds/provision of the guarantee can be provided as a Company law group is then created such that Section 239 CA 2014 does not apply as is made clear in Section 243 CA 2014; or - Carry out the summary approval procedure under Section 202 and 203 CA 2014 (as discussed above); or - Have the company that is to be loaned the money issue a preference share with limited rights in return for the funds – advise the client that in order to redeem the shares, distributable reserves will be required or alternatively a reduction of capital carried out under Section 202 and 204 of CA 2014. <p>The tax considerations of this transaction should also be considered.</p>	
30.	<p>Has the Group a number of companies within it which carry out similar activities and is the client interested in reducing the number of companies and amalgamating activities? – If so, consider whether a merger by absorption or merger by acquisition could be affected such that following the transfer of the assets and liabilities of the relevant entities, these entities are dissolved. Advise that the merger option can be affected by carrying out a summary approval procedure under Section 202 and 206 of Companies Act 2014. Alternatively, if the client does not want to carry over the latent liabilities (which the merger option would do), carry out a share for undertaking transaction (assuming the assets transferring is an undertaking i.e. a business capable of operating on its own). The tax considerations of this transaction should also be considered.</p>	

31.	<p>Is there an intention for the current shareholders to retire/transfer shares to the next generation or key employees? – If so, consider advising the client of the necessity to plan for a future share buyback/redemption. Advise of the need for distributable reserves, or if there is a large share capital advise on the possibility of reducing the share capital to create a distributable reserve under the Section 202 and 204 summary approval procedure.</p>	
32.	<p>Is there a dispute between the shareholders, whereby one shareholder needs funds personally and the other does not but has to take the funds in order to ensure things are equal? If so, consider advising the client to implement a structure whereby each shareholder incorporates their own holding companies. A new class of share (which only gives entitlement to future dividends) is then issued in Trade Co. to each of the respective individual holding companies. Once issued, dividends can be paid up to each Hold Co. The shareholder that needs the cash can pay it out of Hold Co. and the shareholder that does not, can invest it through the use of individual Hold Co.</p> <p>This structure can result in no tax being payable on the receipt of the dividend up to new Hold Co. as well as providing an option to avoid a close company surcharge on the dividend for Hold Co.</p>	
33.	<p>Is the client trying to incentivise employees or retain key talent? – if so, advise them of the various share schemes that can be put in place – e.g.</p> <ul style="list-style-type: none"> - clog scheme (shares issued now but as part of an agreement they do not get access to them for a period of time). Before this is implemented it is important to obtain tax advice as there are certain conditions to be met. - flowering share scheme – a scheme whereby the market value of the Company is locked into the existing shareholders shares and a new class of shares issued to the incoming shareholders which will derive value on the increase in the value of the company from that date. This incentivises the employees to grow the company. - Share options – advise clients of the option to issue options over shares but the necessity to have sufficient authorised share capital on issuance of those options. 	
34.	<p>Is the client interested in maintaining control but allowing future value to accumulate to the children?</p> <p>If so, consider implementing a flowering share scheme, whereby the existing class of shares owned by the existing owner is capped at the market value of the Company at today's date and all future value will go to a new class of share which may or may not have voting rights and these shares are issued to the children.</p>	
35.	<p>Does your client wish to protect excess cash in his trading Company?; or Amalgamate two or more companies not currently in a tax group into one group? –</p>	

	<p>If so, advise the client of the possibility of implementing a share for share transaction whereby a Newly incorporated Company will offer to purchase the shares in the existing Company from the existing shareholder in return for the Newly incorporated Company issuing shares in itself to that shareholder.</p> <p>There are numerous tax reliefs in existence which ensure that this can be carried out without incurring any tax and without affecting future claims for retirement/entrepreneurial relief.</p>	
36.	<p>Does the Company have two different trades in the same company?; or Does the company have investment assets and trades?; or Does the company have investment assets that would dilute business asset relief or other reliefs on a future transfer?; If so, consider implementing a share for undertaking transaction whereby the undertaking (which is a business capable of operating independently or a 100% shareholding) is transferred out into another Company owned by the same shareholders and in return for the transfer, the shareholders of the existing company are issued shares in the company that received the undertaking.</p> <p>There are numerous tax reliefs in existence which ensure that this can be carried out without incurring any tax and without affecting future claims for retirement/entrepreneurial relief.</p>	
37.	<p>Is the client considering incorporating the sole trader business? if so, consider issuing shares in return for the business in order to avoid CGT on the transfer in</p>	
38.	<p>Is the company considering in the next year acquiring and disposing of a non-cash asset from/to its directors and/or their connected persons as defined in Section 220 CA 2014? – If so, ensure that a Section 238 ordinary resolution is passed by the members to permit the transaction.</p>	
39.	<p>Has the Company acquired a subsidiary and received a dividend from profits made prior to the acquisition of the subsidiary? If so, the dividend receipt into the Holding Company is not considered distributable – In order to convert this to a distributable reserve (may be required in order to carry out a restructuring or pay a future dividend out of hold Co.) advise the client of the possibility of completing a summary approval procedure under Section 202 and 205 CA 2014 to convert it to a distributable reserve.</p> <p>(Note that if the subsidiary was acquired by way of a share for share transaction where they acquired at least 90% of it, then the pre-acquisition reserves restriction would not apply).</p>	
40.	<p>Is the client trying to bring in new shareholders and arrange for a buyback/redemption of his/her shares but the market value of one share is too expensive for the incoming shareholders to invest? If so, arrange for a sub-division of shares to make the price per share cheaper (e.g. an entity has 2 shares in issue of €1 each and the</p>	

	<p>market value of the company is €500k. The incoming shareholder must subscribed €500k for one share which that shareholder does not have. In this case, a sub-division of the shares from the existing 2 shares of €1 each to 20,000 shares of €0.0001 each will allow the incoming shareholder to just subscribe €50 for one share). An ordinary resolution is required to permit the sub-division but a special resolution is required to update the constitution.</p>	
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Registers Checklists

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The Ultimate Companies Act 2014 Toolkit
for Accountants & Professional Advisors

Company Register/Statutory Registers Checklist

Client:

Name of procedure: Company's Registers

Prepared by:

Reviewed by:

Signed:

Date:

Checklist	Legislative Reference	Complete
Private companies are required to maintain statutory registers.	S.216 CA2014	
Is the statutory register maintained at the registered office of the company?	S.216(3) CA2014	
If not the registered office, is it at the companies place of business within the State or another place within the State.		
Are the statutory books/register being kept by another person on behalf of the company? If yes, this should be within the State.	S.216(4) CA2014	
If the register is being kept elsewhere from the registered office has the company sent notice to the Registrar of that place?	S.216(6) CA2014	
Is there a person assigned to maintain the register? In many cases this is the Company Secretary.		
Are your company details included at the beginning of the register?		
These should include; <ul style="list-style-type: none"> • Company Name • Company Number • Date of Incorporation • Registered Office Address • Any changes to the registered office address and the date of change • Where the company seal is kept • Change in name of company and the date 		
Are the company minutes and CRO records being regularly reviewed for any changes to be made to the register? Particular attention must be given to the members, officer, share allotments and transfers.		

<i>Register of Members and Share Ledger</i>	S.169 (Ltd), 1201 (CLG) & 1261 (ULC) CA2014	
Does it include the following; <ul style="list-style-type: none"> • Name of the member • Address of the Member • Date they became a member • Date of which they ceased to be a member (if applicable) • Class of shares • Number of Share (paid or unpaid) • allotment or shares • transfer of transfer • buyback/redemption of shares • Share certificate number • Number of shares • Price per share • Currency of the shares in question • Folio reference (best practice) • Total balance of shares Notes section to explain items (e.g. redesignation etc.)	S.169(1) CA 2014	
Has the company minutes, resolutions and CRO records been reviewed to assess whether the below have been included/updated in the register: <ol style="list-style-type: none"> a) share transfers b) Share allotments (B5) c) Redesignation of shares d) Creation of new share class e) Cancellation of shares f) Redemption/buyback of shares Note ownership of shares does not transfer until it has been included in the members register	S.169(3) CA 2014	
Ensure changes to the register are updated within 28 days from the date of the event	S.169(3) CA 2014	
No trusts are required to be entered into the register	S.171 CA 2014	
Particular care needs to be taken during share transfer and allotments to ensure the register is accurate.		
All members can request to inspect this register Persons other than members can also request this register for a fee of €10 - €15 if all registers are being requested Must produce it within 10 days	S.216 CA 2014 S.217 CA 2014	

Having no members register is a category 3 offence	S.169 CA 2014	
<i>Register of the Directors and Secretaries</i>	S.149 CA 2014	
Does it include the following for the Director; <ul style="list-style-type: none"> • Name of the Director • Former names (if applicable) • Address of the Director • Nationality • Occupation • Date of Birth • Date of which they became Director • Date of which they ceased to be a Director • Other Directorships (if applicable) held (whether within the state or not) within the last 5 years from the current date 	S.149(2) CA 2014	
Does it include the following for the Secretary; <ul style="list-style-type: none"> • Name of the Secretary (if a body corporate – name of Company) • Former names (if applicable) • Address of the Secretary (if a body corporate – registered office) • Date of which they became Secretary • Company number (If a body corporate) • Date of which they ceased to be a Secretary 		
Has the company minutes, resolutions and CRO records been reviewed to assess whether anything disclosed/minutes in relation to the directors have been updated in the register. Examples include: <ul style="list-style-type: none"> - notifications of acquisition/disposal of company shares as required under S.262 & 265 (relating to the director or secretary which includes the directors spouse/civil partner and children) - notifications of the acquisition of a right to subscribe for shares in the future or the exercise of the right to acquire shares in the company as required under S.263 & 265 (relating to the director or secretary which includes the directors spouse/civil partner and children). It should detail the number, class, and consideration payable. - has the mode of notification of the interest met the requirements in S.265 (the number of shares purchased, the class, the price paid for them. 	S.149(8) CA 2014 S.262 to 2.65 CA 2014	
All members can request to inspect this register Persons other than members can also request this register for a fee of €10 - €15 if all registers are being requested Must produce it within 10 days	S.216 CA 2014 S.217 CA 2014	
Having no members register is a category 3 offence	S.169 CA 2014	
<i>Register of Directors' & Secretaries' Interest</i>	S.267 CA 2014	

<p>Does the register include:</p> <ul style="list-style-type: none"> • Name of Director/Secretary • Address of the Director/Secretary • Date of Birth • Occupation • Nationality • Date of which they were appointed Director/Secretary • Date of which they resigned as Director/Secretary • Class of shares • Share acquired • Amount paid for the shares 		
<ul style="list-style-type: none"> • Once notified of an interest received has the register been updated within 3 days of receipt – if not it is a category 3 offence 	S.268 CA 2014	
<p>Has the Company granted the secretary or directors a right to subscribed for shares or debentures – if so, has the register of interests been updated to reflect this detailing the name, the number of shares, the class of shares, the consideration payable and the timing period when it can be exercised</p>	S.267(4) CA 2014	
<p>Has the company minutes, resolutions and CRO records been reviewed to assess whether anything disclosed/minutes in relation to the directors have been updated in the register. Examples include:</p> <ul style="list-style-type: none"> - notifications of acquisition/disposal of company shares as required under S.262 & 265 (relating to the director or secretary which includes the directors spouse/civil partner and children) - notifications of the acquisition of a right to subscribe for shares in the future or the exercise of the right to acquire shares in the company as required under S.263 & 265 (relating to the director or secretary which includes the directors spouse/civil partner and children). It should detail the number, class, and consideration payable. - has the mode of notification of the interest met the requirements in S.265 (the number of shares purchased, the class, the price paid for them. - notifications received from directors under S.231 CA 2014 regarding disclosure of interest in a contract being discussed (review minutes to ascertain had such a notice been given). 	S.149(8) CA 2014 S.262 to CA 2014	
<p>Does the register of interests have an index of names. This is required</p>	S.268 CA 2014	
<p>Rules over removal of entries in the interests register – An entry can be deleted from the register if:</p> <ul style="list-style-type: none"> a) If directors/secretaries interest ceased more than 6 years from date of entry; or b) If superseded by another entry <p>Following deletion of a person from the register in line with the rules in a) above, the index must be updated within 14 days</p>	S.269 CA 2014	
<p>Does this contain the Directors/Secretaries interest in the company's shares?</p>		

Does this contain the Directors/Secretaries interest in the subsidiary or holding company shares?		
All members can request to inspect this register	S.216 CA 2014	
Persons other than members can also request this register for a fee of €10 - €15 if all registers are being requested	S.217 CA 2014	
Must produce it within 10 days		
Having no members register is a category 3 offence	S.169 CA 2014	
Register of Charges and Mortgages	S.414	
Does the register include; <ul style="list-style-type: none"> • Charge or Mortgage Number • Date of the Mortgage or Charge • Date of Registration • Date of Release • Description • Person(s) entitles to Charge • Amount Secured • Interest Rate • Particulars of the Charge 		
Is this being updated regularly?		
Has the company minutes, resolutions and CRO records been reviewed to assess whether anything disclosed/minutes in relation to the charges have been updated in the register.	S.414 CA 2014	
Is the charge details being reviewed to ensure it reflects the information in the register?		
Minute Book Companies are required to maintain an up to date minute book which details decision taken in meetings and written resolutions. This covers directors meetings and general meetings	S.166 CA2014 S.199 CA 2014	
Have the minutes of every meeting/written resolution been inserted into the minute book?		
Are the minutes signed by the Chairperson of the meeting?	S.166(4) CA 2014	
Where minutes of a director meeting have been made, the proceedings at any meeting of directors or committee of directors, then, until the contrary is proved— (a) the meeting shall be deemed to have been duly held and convened; (b) all proceedings had at the meeting shall be deemed to have been duly had; and	S.166 CA 2014	

(c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.		
<p>If minutes are purporting to be signed by the chairperson of the meeting at which the proceedings were had, or by the chairperson of the next succeeding meeting, then this shall be evidence of the proceedings.</p> <p>Where minutes have been made in relation to general and extraordinary meetings, then, until the contrary is proved—</p> <p>(a) the meeting shall be deemed to have been duly held and convened;</p> <p>(b) all proceedings had at the meeting shall be deemed to have been duly had; and</p> <p>(c) all appointments of officers made by its directors at the meeting shall be deemed to be valid.</p>	S.199(3)(4) CA 2014	
Are the minutes being entered into the minute book as soon as is possible after the meeting?	S.166(2) CA2014	
Requesting the Register/Minute Book		
<p>If requested by a member, the company must produce a copy or any part of a document relating to the below within ten days;</p> <ul style="list-style-type: none"> • Directors and Secretaries Register • Disclosable interests register • Members register • Minutes of the meeting <p>The register or document shall be open to the inspection of any member of the company without charge.</p>	S.216(11) CA2014	
<p>If requested by any other person, on payment of the relevant fee, the company shall open the following for inspection within ten days;</p> <ul style="list-style-type: none"> • Directors and Secretaries Register • Disclosable interests register • The Members Register 	S.216(8) CA2014	
<p>If requested by the Director of Corporate Enforcement can inspect and take copies of the minutes of Directors meetings.</p> <p>Failure to comply is a category 4 offence.</p>	S.2016(9) CA2014	
Other Registers the Company may include are;	S.216(13) CA2014	
<ul style="list-style-type: none"> • Register of Applications & Allotments • Register of Transfers • Register of Debentures 	S.166(5) CA2014	
	S.166(6) CA 2014	

Company Register

of

COMPANY NAME Limited

Company Details

Company Name: Company Name

Certificate Number: Number

Date of Incorporation: XX/XX/XXX

Registered Office Address: Registered
Date Office
Address
Co. X

Changed To: _____

Company Seal kept at: _____

Change in Name in Company to: _____

COMPANY NAME Limited

Date
Of Incorporation

Register of Directors

Registration No
CO. NUMBER

Name Address Folio Ref	
---------------------------------------------------	--

Date of Birth Occupation Nationality	
-----------------------------------------------------------------	--

Past Names		
From	Up To	Name

Current Appointments	
Date Appointed	
Appointed As	Director
Notes	

Past Appointments	
Date Resigned	
Resigned As	
Notes	

Other Directorships

Date of Incorporation

Company Name Limited

Date
Of Incorporation

Register of Secretaries

Registration No
Co. Number

Name Address Folio Ref	
---------------------------------------------------	--

Past Names		
From	Up To	Name

Current Appointments	
Date Appointed	
Appointed As	Secretary
Notes	

Past Appointments	
Date Resigned	
Resigned As	
Notes	

Other Directorships

Date Of Incorporation

Company Name Limited

Register of Members and Share Ledger

Date
Of Incorporation

Registration No
Co. Number

Name		Date of Entry as a Member	
Address		Occupation	
Folio Ref		Date of Cessation of Membership	

Class							Currency		
£/€ Ordinary shares									
Date of Entry	Entry Number		Certificate Number	Number of Shares		Balance	Price Per Share	Total Amount Agreed to be Paid	Notes
	Allotment	Transfer		Acquired	Disposed				
Totals									

Date Of Incorporation

Company Name Limited

Date
 Of Incorporation

Register of Transfers

Registration No
 Co. Number

£/€ Ordinary shares

Transfer Number	Transfer Date	Transferor Name and Address	Transferor Folio Ref	Certificate	Transferee Name and Address	Transferee Folio Ref	Certificate	Shares Transferred	Price Per Share	Total Amount Agreed to be Paid

Date Of Incorporation

Company Name Limited

Register of Mortgages and Charges

Date
Of Incorporation

Company Number
Co. Number

Mortgage or Charge Number	Date of Mortgage or Charge	Date of Registration	Date of Release	Description of Mortgage or Charge	Mortgagee(s) or Person(s) Entitled to Charge	Amount Secured	Interest Rate	Particulars of Property Charged

Date Of Incorporation

Company Name Limited

Date
Of Incorporation

Register of Directors Interests

Company Number
Co. Number

Name		Date of Birth	
Address		Occupation	
Folio Ref		Nationality	

Date Appointed	Appointed As	Date Resigned	Notes
	Director		

Interests in £/€ Ordinary shares						
Date	Notified On	Shares Acquired	Shares Disposed	Balance	Amount Paid In Total	Notes

Date Of Incorporation

Company Law, Financial Reporting and Audit Guidance For The Restoration of Companies to The Public Register - In Ireland

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International Standards on Auditing

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

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COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

Introduction

The purpose of this Guidance Document is to summarise the circumstances under which a company registered in the Republic of Ireland may be struck off the Register of Companies and the procedures to be followed if the company is to be restored to the Register. This guidance also discusses the implications for auditors examining financial statements prepared as part of the restoration process and the considerations for the audit file and process.

How do I restore a previously struck off company?

Where a Company is struck off the register for a period not exceeding 12 months – Administrative restoration

Where a company has been struck off the register for a period not exceeding 12 months, an application for restoration may be made by the company to the Registrar of Companies. Once the 12 months has elapsed, it is only possible to restore the company via Court Order Restoration as detailed in point 2 below.

Where a company has been struck off under Section 733 Companies Act 2014, Section 311 Companies Act 1963 or was struck off under section 12 Companies Amendment Act 1982, it may apply for restoration by filing within 12 months of the date of the dissolution.

- Form H1 (filing fee €300 usually paid by bank draft in order to expedite the process).
- A form H1 must be received within the period of twelve months after the date of dissolution of the company i.e. if a company was dissolved on 17/3/2016, then the application for restoration on the form H1 must be received on or before 16/3/2017.
- All other conditions as outlined below must be met within 15 months of the date of dissolution of the company, i.e. if a company was dissolved on 17/3/2016 and the form H1 has been received within the 12 month period outlined above, the following conditions must be met by 16/6/2017.
- The conditions that must be met include:
- The Registrar must be satisfied that Section 137(1) is being complied with in relation to the company; (EEA resident director – bond requirement).
- The Registrar must be satisfied that no notification required by section 149(8) (directors register requirements) remains outstanding in relation to the company.
- All outstanding annual returns together with the Financial Statements which are required to be annexed to same pursuant to the provisions of the Companies Act 2014. These Financial Statements must relate to an individual financial year and may not be amalgamated with the Financial Statements for another financial year or years. (Fee per return €40 plus the relevant late filing penalties.)
- Only the 1st outstanding B1 can be filed electronically in a restoration application. All additional B1's outstanding must be filed manually.
- Where a company has been struck off following default in compliance with Revenue Commissioner requirements, CRO require written confirmation from Revenue that all outstanding, if any, statements required by section 882 Taxes Consolidation Act 1997 have been delivered to them by the company.

Where a company has been struck off under Section 12a of the Companies Amendment Act 1982 or Section 726(1)(b) Companies Act 2014 (Revenue strike-off) a member or officer may apply for restoration by filing within 12 months of the date of dissolution. An additional document will then be required to accompany the form H1 and assorted documents above that being written confirmation from Revenue that all outstanding statements required by Section 882 Taxes Consolidation Act 1997 have been delivered to Revenue.

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

How do I restore a previously struck off company? (continued)

Where a Company is struck off the register for a Twelve Months or More

Administrative restoration is not possible if more than 12 months have elapsed since the date of the company's dissolution. The forms must be submitted not later than **the day before the anniversary** of the company's dissolution for the Registrar to be in a position to restore a company administratively. Any required amendments to documents submitted must be completed within the 15 month period. If that deadline is missed, a Court application will be necessary. Where a company or any member, officer or creditor of the company feels aggrieved by the company having been struck off the register, the court may, within 20 years of the date of dissolution of the company, order that the company be restored to the register.

Restoration of an Owners Management Company

Where an Owners Management Company has been struck off voluntarily under Section 733 Companies Act 2014, Section 311 Companies Act 1963 or was struck off under Section 12 Companies Amendment Act 1982, it may apply for restoration by filing within six years of the date of dissolution;

- Form H1-OMC (fee €300) (Please note if the dissolution is within one year of application for restoration, it is simpler to file form H1 instead).
- All outstanding annual returns together with the Financial Statements which are required to be annexed to same pursuant to the provisions of the Companies Act 2014. These Financial Statements must relate to an individual financial year and may not be amalgamated with the accounts for another financial year or years. (Fee per return €40 plus the relevant late filing penalties).
- The Registrar must be satisfied that Section 137(1) is being complied with in relation to the company; (EEA resident director – bond requirement).
- The Registrar must be satisfied that no notification required by Section 149(8) remains outstanding in relation to the company (director register requirements).
- Note the Form H1-OMC is for Owner Management Companies only. Form H1-Omc cannot be used to administratively restore a company struck off the register by the Revenue Commissioners. The form must be accompanied by the relevant certificates before restoration can be effected. For example of Certification of solicitor or accountant, please see Form H1-Omc certification page. Please also see the notes on the Form. An Owners Management Company is defined in section 1 of the Multi-Unit Developments Act 2011.

Please note that where an officer of an OMC completes Form H1 within the first 12 months of the dissolution, it is not necessary to file Form H1-OMC. However where a restoration application is made between 1 and 6 years after the dissolution, the officer of the company must complete Form H1-OMC. Form H1 is valid only for the first year since the dissolution of the company and has less requirements than the Form H1-OMC. If a member of the company is making the application to restore the company, then the form H1-OMC must be completed.

It should also be noted that form H1-OMC will be rejected where not all of the necessary documents have been filed. Form H1-OMC must have the certified copy of the deed of transfer of common areas attached as well as the certification of the solicitor or accountant. The deed must be dated no later than the day prior to the date of the company's dissolution. An undated and/or unsigned deed is insufficient.

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

How do I restore a previously struck off company? (continued)

Court Order Restoration

Where a company has been struck off for a period exceeding 12 months, an application for restoration must be made to court. It is advisable that legal advice be obtained in relation to any proposed application to court for restoration. Where a company has been struck off for a period not exceeding 12 months, see Administrative Restoration above.

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.

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 Companies Act 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 the Enforcement Section of the 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 Companies Act) are delivered to the CRO, and are in order.
- Non-trading companies (dormant companies) must submit with each annual return an auditor's report and a balance sheet reflecting the share capital. Where a company has been struck off following default in compliance with Revenue Commissioner requirements, CRO require written confirmation from Revenue that all outstanding, if any, statements required by Section 882 Taxes Consolidation Act 1997 have been delivered to them by the company.

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

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

How do I restore a previously struck off company? (continued)

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. A company search carried out will also show that the company has been re-instated. The date of re-instatement will also appear on a company printout.

Submission of Court Order

A certified copy of the Court Order restoring the company, together with the €15 filing fee, should be delivered to the CRO for registration by the applicant as soon as it is available from the Court Office and within 28 days of its perfection. The name of the company cannot be restored to the register unless the Order is lodged in a timely fashion with CRO. If the order is not lodged on time, a fresh restoration application will be necessary.

Creditors Restoration

Circuit/High Court restoration applications by a creditor

A creditor cannot use the H1 procedure, but may apply to the Court at any time from the date of dissolution of the company (i.e. there is no requirement that the creditor has to wait until the 12 month H1 period has expired before bringing his restoration application) until the expiry of 20 years from the date of dissolution of the company.

Voluntary strike off (creditor restoration)

If the company was struck off voluntarily, a creditor may apply to the Circuit Court/High Court pursuant to Section 738 Companies Act 2014 for the restoration of the company. The applicant should obtain letters from:

- CRO – Submit a letter to Enforcement Section, Companies Registration Office, requesting confirmation that the Registrar of Companies has no objection to the restoration of the company to the Register, and
- Chief State Solicitors Office (on behalf of the Minister for Public Expenditure and Reform) stating that there is no objection to the restoration of the company to the register.

Involuntary strike off (creditor restoration)

If the company was struck off involuntarily, a creditor may apply to the Circuit Court or the High Court pursuant to Section 738 Companies Act 2014, and should obtain letters from:

- CRO – Submit a letter to Enforcement Section, Companies Registration Office, requesting confirmation that the Registrar of Companies has no objection to the restoration of the company to the Register,
- Revenue, and
- Chief State Solicitors Office (on behalf of Minister for Public Expenditure and Reform) stating that there is no objection to the restoration of the company to the register.

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How do I restore a previously struck off company? (continued)

This letter of no objection from the Registrar will be conditional upon the applicant putting the officers of the company on notice of the application, and in particular of the terms of Section 740 Companies Act 2014, which provides that the Court shall, in making a restoration order on the application of a creditor, direct one or more specified members or officers of the company to deliver all outstanding annual returns to the registrar within a specified period. Please see information leaflet 11 for more information.

The names and addresses of the last-recorded officers of the company, according to the CRO register, may be ascertained from CRO Enforcement Unit, Parnell House, 14 Parnell Square, Dublin 1.

Submission of Court Order

A certified copy of the Court Order together with the relevant filing fee (€15) should be delivered to the CRO for registration by the creditor as soon as it is available from the Court Office.

The name of the company cannot be restored to the register unless the Order is lodged in a timely fashion with CRO. In practice, this means that an office copy of the Restoration Order must be received by the CRO within 28 days from the date of its perfection. If the order is not lodged on time, a fresh restoration application will be necessary.

Dissolution following liquidation

If a company was dissolved following liquidation, a court order is necessary to restore the company. The restoration can be made under Section 708 of the Companies 2014 within two years of the dissolution. This would have the effect of voiding the dissolution of the company and restoring it to a status of liquidation.

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

Implications for the Financial Statements

Administration Restoration

Practical difficulties arise where annual returns are outstanding for one or more years in respect of which financial statements have not been prepared, the main consequence is the company loses its entitlement to claim the audit exemption in the following two years - Section 363 Companies Act 2014 as amended by section 10 Companies (Statutory Audits) Act 2018. Accordingly the directors have a duty to appoint an auditor to the company as soon as possible after the company ceases to comply with the qualifying conditions. **NOTE** 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. **For further guidance on the 343 district court process and ability to apply it see OmniPro website.**

While a request for reinstatement is accepted the majority of time, there is no guarantee that the application to the Registrar for restoration to the CRO will be successful accordingly financial statements prepared and submitted for audit must be scrutinised and the auditor apply their scepticism that the financial statements may not be accepted.

With this in mind the auditor should then consider the True and Fair view concept required under financial reporting standards, and the obligation in the auditors provide an opinion on the compliance of the entity with those reporting obligations as well as company law. Which in the case of company law S.326 and S.327 of CA 2014 requires the directors report to include a fair review of the business of the company (for non qualifying small entities) and particulars of any important events affecting the company which have occurred since the end of the year as well as any future intentions or developments.

Therefore on this basis a sample directors report disclosure which might be included in the Directors' Report to support the True and Fair view concept and the auditors opinion on compliance with companies act, is as follows:

"As detailed in Note X to the financial statements, the company was struck off the Companies Registrar on Monday, 1st December 201X. The directors will make an application to the Registrar for restoration of the company and it is expect the application will be successful. This report and the attached financial statements are prepared on the presumption that the company will be reinstated to the Register."

The supporting Note X referred to above included in the notes to the financial statements. May contain the following:

"On Monday, 1st December 201X, the company was struck off the Companies Registrar on the grounds that it failed to file its Annual Return within the relevant statutory period. Before an application to the Registrar for restoration can succeed, the company is obliged to lodge with the Companies Registration Office all outstanding annual returns, together with financial statements and all other documentation required to be annexed thereto. As the director consider:

- (i) The necessary material will be filed with the application;*
 - (ii) All transactions entered into during the period were properly transactions of the company; and*
 - (iii) The application for restoration will be successful*
- the financial statements for the year ended 31 December 201X have been prepared on the going concern basis, on the presumption that the company will reinstated to the Register."*

In the above, the reason why the sentence "All transactions entered into during the period were properly transactions of the company" is used is that the company while struck off has continued to transact and exist as if never struck off, this can also be said for a dormant company. As reinstatement means the company is deemed to have continued in existence as if it had not been struck off it is appropriate to assert that any transactions in the period of strike off as genuine.

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Implications for the Financial Statements (continued)

Court Restoration

Where annual returns are outstanding for one or more years that the company has become struck off for 12 months or more, audited financial statements must be prepared for each year the company has not provided an annual return up to the most recent reporting year. Similar to the administration restoration process, there is no guarantee that the application to the High court for restoration to the Registrar will be successful accordingly financial statements prepared and submitted for audit must be scrutinised and the auditor apply their scepticism that the financial statements may not be accepted.

Similar then to the administration restoration process the auditor should consider the True and Fair view concept required under financial reporting standards, and the obligation on the auditors to provide an opinion on the compliance by the entity with those reporting obligations as well as company law. Which in the case of company law S.326 and S.327 of CA 2014 requires the directors report to include a fair review of the business of the company (for non qualifying small entities) and particulars of any important events affecting the company which have occurred since the end of the year as well as any future intentions or developments.

Therefore, on this basis a sample directors report disclosure which might be included in the Directors' Report to support the True and Fair view concept and the auditors opinion on compliance with companies act, is as follows:

"As detailed in Note X to the financial statements, the company was struck off the Companies Registrar on Monday, 1st December 201X. The directors will make an application to the Court for restoration of the company to the Register and consider the application will succeed. This report and the attached financial statements are prepared on the presumption that the company will be reinstated to the Register."

Appropriate disclosure of the background circumstances to be given in Note X referred to above included in the notes to the financial statements. May contain the following:

"On Monday, 1st December 201X, the company was struck off the Companies Registrar on the grounds that it failed to file its Annual Return within the relevant statutory period. Before an application to the Court for restoration can succeed, the company is obliged to lodge with the Companies Registration Office all outstanding annual returns, together with financial statements and all other documentation required to be annexed thereto. As the director consider:

- (i) The necessary material will have been filed prior to the application being heard;*
- (ii) All transactions entered into during the period were properly transactions of the company; and*
- (iii) The application for restoration will be successful*

the financial statements for the year ended 31 December 201X have been prepared on the going concern basis, on the presumption that the company will reinstated to the Register."

In the above, the reason why the sentence "All transactions entered into during the period were properly transactions of the company" is used is that the company while struck off has continued to transact and exist as if never struck off, this can also be said for a dormant company. As reinstatement means the company is deemed to have continued in existence as if it had not been struck off it is appropriate to assert that any transactions in the period of strike off as genuine.

COMPANY LAW, FINANCIAL REPORTING AND AUDIT GUIDANCE FOR THE RESTORATION OF COMPANIES TO THE PUBLIC REGISTER-IN IRELAND

Implications for the Financial Statements (continued)

Implications for Restoring Companies Pre-Companies Act 2014 and FRS 102

When a long time struck off entity is looking to be restored issues can arise due to time having passed and current financial reporting, auditing standards and company law may not be the relevant applicable law or basis for preparing financial statements and performing the audit for those old preceding years.

For example,

- ISAs (Ireland) - IAASA Auditing standards applies for Irish financial statements for periods commencing on or after 17 June 2016.
- ISAs (UK and Ireland) - FRC ISAs (UK and Ireland) applicable for periods beginning on or after 15 December 2010 but before 17 June 2016
- APB ISAs (UK and Ireland) for periods prior to 15 December 2010
- Section 1A FRS 102 and FRS 105 is for periods commencing on or after 1 January 2017 but can be early adopted from periods commencing on or after 1 January 2015
- FRS 102 is for periods beginning on or after 1 January 2015 but can early adoption is permitted for periods ending on or after 31 December 2012.
- Irish GAAP existed prior to transition to FRS 102 or FRS 105
- Companies Act 2014 commenced 1 June 2015 (**Note** always applies)

As can be seen the pace of change in recent years has left the production of compliant financial statements a minefield for auditors and accountants to prepare.

For instance, if I am preparing a set of accounts for an entity that would be a qualifying small entity in the year ended 31 December 2014, I am unable to apply S1A of FRS 102 do I then prepare my accounts using FRSE, Old Irish GAAP or early adopt FRS 102?

What auditing standards will apply for that period and as a result what should the content and structure of my auditor's report look like? Obviously in this scenario it will be the older form FRC ISAs (UK and Ireland) of auditor report, tailored to reflect the various disclosures and emphasis of matters as explained further in this guidance document, but you get a picture of the challenges posed.

Note: Any set of accounts signed and adopted by directors in the present must always apply the most recent company law, therefore those company law disclosures in accounts required by CA2014 must be given, being the current company law. And the audit file must also consider the application of the current company law of CA2014 in the present even if the engagement is over 10+ years old.

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Transfer of Shares on Death of Shareholder

The shareholding of the deceased person forms part of their estate and how this is distributed will depend on whether he/she died in testate (the deceased having a will in place) or intestate (person has passed without a will).

Testate

Under the assumption a will is in place, it would be the duty of the Executor (the person/persons named in the will to deal with the person's affairs after their death) to be entitled to take out probate in order to deal with the transmission of the person's shareholding.

Intestate

If the person has passed intestate, a grant of representation should be sought in order to deal with the shareholding. Once the grant is issued the Administrator(s) of the estate have the authority to deal with the transmission of the shareholding.

When a person has passed intestacy, Section 67(1) Succession Act states that if a spouse dies leaving no children, the surviving spouse takes the whole estate.

While Section 67 (2) of the Act states that if a spouse dies leaving a spouse and children, the surviving spouse is entitled to two thirds of the deceased's estate and the remaining one third of the estate is divided equally or per stirpes, i.e. does not inherit in an individual capacity but as a member of a group.

Personal Representative

Ownership of a deceased shareholder's shares will vest with their personal representative from the date of their passing. The personal representative is the Executor of the estate or the person/persons administering the estate.

The company secretary should require sight of either the original or an official copy of the grant of probate or grant of representation. The Secretary should then confirm the personal representative's identity against the grant of representation or grant of probate, if there is any doubt of their identification, the Secretary should request a declaration of identity from the personal representative.

Who holds the shares on passing of a shareholder?

Unless the Constitution or a Shareholder's Agreement provided says otherwise, the Personal Representative may decide to enter into the register their own name. If this is the case, they would need to give in writing to the Company this intention. The Register would need to be updated accordingly on confirmation of their identity and no stock transfer form would be required.

Under Section 96(4)(b) CA2014 the Personal Representative may elect someone else, in this case the stock transfer form will need to be completed and executed with the Personal Representative signing off on behalf of the deceased shareholder and the Register Updated accordingly.

In any event it should be noted that the spouse is not automatically entitled to the shareholding nor if there is a will have they automatic right to be Executor.

Initial Steps for the Secretary when they are inform of the passing of a shareholder

Once the Secretary is informed that a shareholder has passed a note should be left on the Register of members. This should be updated regardless if the grant of probate or grant of representation has been issued.

On receipt of the original share certificate, the Secretary should include, the shareholder's date of passing, information from the grant of representation/grant of probate including the name and address of the personal representative should be noted on the back of the original certificate.

The Company's constitution or shareholders agreement should be reviewed for any specific clauses or procedures relating to transfer of shares when a member has passed.

Steps to Transfer the Shares when the Personal Representative is Transferring their shares to someone else;

A Meeting of the Directors should be held to approve the transfer of shares and note evidence supporting the Personal Representative and Transmission of the Shares. The Meeting should conclude with the authorisation to issue the new share certificate to the transferee. For best practice, a balancing certificate should also be issued to the representative of the deceased.

The stock transfer form should be executed by the personal representative of the deceased with evidence of their appointment attached to the form alongside evidence of the authority of the transferee entitlement to the shares e.g. Grant of probate or Grant of representation.

For larger estates, a Copy should be taken of the grant of probate and the original or official copy of the grant of probate should be stamped with the Company seal and returned to the personal representative.

The completed stock transfer form and original share certificate should be sent to the company for registration. The Secretary should then update the Company's Register, Beneficial Owners Register and Register of Beneficial Owners (RBO).

How to update the Register

Upon receipt of the completed stock transfer form and related documentation, the follow should be completed on the Register;

- the date of death of the deceased,
- date of registration of probate,
- the name(s), address(es) and evidence of the personal representative,
- the deceased members name should also be updated with '(deceased)',
- and, the deceased person's residential address updated to C/O Executor or Administrator followed by their postal address.

It is important that the grant of probate or grant of administration has been issued prior to any of the above steps being taken. Any photocopies of the probate or grant of administration should be authenticated by a solicitor or commissioner of the oaths to be a true copy.

Notes

If the Company Secretary has received notice from more than one individuals that they are the Personal Representative, the Secretary should request evidence of their appointment, in some cases this may include obtaining be a letter from the legal authority dealing with the estate.

Personal Representatives should be issued Notices for any meetings their shareholder was entitled to attend.

Ownership of a deceased shareholder's shares will vest in his/her personal representative from date of death.

Where the Secretary is given a Grant of representation it does not require sight of the death certificate.

The Law

EU Law

On 22 March 2019, The European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019 came into force, except for Part Three regarding the new Central Register which became effective 22 June 2019. The 2019 Regulations replaced the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2016. These 2016 Regulations required an entity to maintain a beneficial ownership register since 15 November 2016.

The purpose of the 2019 Regulations is to bring Ireland's beneficial ownership regulations in line with the Fourth Money Laundering Directive (4MLD) as amended by the Fifth Money Laundering Directive (5MLD).

Anti-Money Laundering Directives ('AML'D') also known as Anti-Money Laundering and Counter Terrorism Financing Directives.

AML'D consists of a number of EU Directives in order to prevent the misuse of the financial system for the purpose of money laundering and terrorism financing.

Recent Directives include;

- EU Directive 2015/849 - 4MLD; and
- EU Directive 2018/843 - 5MLD which amends 4MLD, was adopted by the Council of the EU on 14 May 2018 and came into force on 9 July 2018 with an 18-month transposition period.

Article 30(1) of 4MLD requires all EU Member States to put into national law provisions requiring corporate and legal entities to obtain and hold adequate, accurate and current information on their beneficial owner(s) in their own internal beneficial ownership register.

Article 30(3) of 4MLD/Part 3 of 2019 Regulations requires entities to file information with a central register in each Member State.

Irish Law

The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 transposes 4MLD as amended by 5MLD into National Law.

Statutory Instrument (SI), No 110/2019, established a Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies (RBO).

SI No 110/2019 requires companies and industrial and provident societies (I&Ps) to maintain an internal register and for this information to be filed on a central register. The requirement for internal Register of Beneficial Ownership came into effect from 15 November 2016.

Regulations 20(6) and (7) of SI 110/2019 details the only method of filing beneficial ownership data is by electronic means through an on-line portal.

The Register of Beneficial Ownership (RBO) was due to open on 22/06/2019 after which there will be five months for companies to file their RBO data without being in breach of their statutory duty to file.

Note: The RBO is will be open on **29 July 2019**, with the filing deadline on or before **22 November 2019**.

What is the Central Beneficial Owners Register and what is its purpose?

Entities must identify their Beneficial Owners and keep their details on their own internal register and register those details with the Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies (RBO). These requirements are alongside an entities CRO filing obligations.

The purpose is to improve corporate trust and transparency in Ireland and the EU by making it clear to law enforcement agencies, regulators, obliged entities, other businesses and the public about who ultimately owns and controls Irish companies (including Companies Limited by Guarantee (CLGs)) and industrial and provident societies (I&Ps)).

Note: Part 2 of 110/2019 requires Company/Society must also maintain an internal register which came into effect 15 November 2016.

A company/society is legally obliged under Regulation 5 of SI 110/2019 to maintain an “adequate, accurate and current” register of beneficial owners.

Who is a Beneficial Owner?

Article 3(6), 4AMLD, defines a “beneficial owner” is a natural person who directly or indirectly owns or controls over 25% of the share capital or the voting rights or control by any other means.

This can include more than just one beneficial owner, for example, a sole director will be considered a beneficial owner as they have direct control. Where there is a different shareholder with 25%+1 share, they are also deemed to be a beneficial owner.

Natural Person is defined as a human being.

Direct control is where the beneficial owner personally owns or controls a relevant entity by one or more of the following means;

- 25% plus one share or
- more than 25% of the voting rights, or
- more than 25% of the ownership interest, or
- has direct control or influence over the company/society via other means.

Indirect control is indicated by a shareholding of 25% plus one share or an ownership interest of more than 25% held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s).

Control via other means which is explained in Recital 13 of 4AMLD as follows:

“Control through other means may, inter alia, include the criteria of control used for the purpose of preparing consolidated financial statements, such as

- through a shareholders' agreement,
- the exercise of dominant influence or
- the power to appoint senior management”.

In the case of indirect ownership (e.g. a trust structure or corporate entity as a shareholder), there is still a legal requirement to file and disclose details of the ultimate beneficial owner (UBO).

Where the entity is a subsidiary owned by multiple corporate entities, Article 3(6) 4AMLD states that a shareholding of 25% plus one share or an ownership interest of more than 25% in a subsidiary held

Detailed Guide

Register of Beneficial Owners

by multiple corporate entities which are under the control of the same natural person(s), shall be an indication of indirect beneficial ownership.

Note: All corporate entities and legal entities, including trusts, investments funds, I&Ps are required to keep details of their Beneficial owners on their internal register as required by 4AMLD. This excludes companies listed on a regulated market. Only companies and I&Ps are required to file on the central register of beneficial owners.

Branches are not required to file beneficial ownership details with the RBO as they are not an entity incorporated in Ireland. However if the external branch is part of an EU-incorporated entity, they will have filing obligations in their country of incorporation.

No shareholder in our company holds more than 25% of shares, who is the beneficial owner?

The company/society must decide what natural person(s) controls the company/society and enter their names in their own internal register and in the RBO.

If, no natural person is identified as a beneficial owner, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of Senior Managing Official(s) shall be recorded on the RBO as the beneficial owner.

Note: Under Regulation 5(4) of SI 110/2019, it is not possible to select one member of the board, all members who hold a position of senior managing official details must be included.

Can a company be a beneficial owner?

A company/society cannot be entered on the RBO. You must look through the company to identify natural person(s) is, irrespective of how many layers of ownership there is, it must be a natural person.

What happens when no Beneficial Owners can be found?

Regulation 5(2) of SI 110/2019 requires 'all reasonable steps' to be taken, these steps involve;

- Regulation 7 Notice of SI 110/2019 is sent to the known members of the company to confirm whether they are beneficial owners or not. The individual should confirm whether they are a beneficial owner within one month of receiving the Notice.
 - *Note:* Regulation 7 is not required if the entity knows the beneficial owner and necessary information with their knowledge.
- Regulation 9 Notice of SI 110/2019 may be given by an entity to any person who is believed to be aware of the identity of other individuals who may be beneficial owners, the company can write out to this party asking them to confirm whether they know who the beneficial owners are. Once issued, the person(s) to whom this Notice has been issued has one month to provide the necessary details.
- Regulation 11 Notice of SI 110/2019 is required where the entity believes that there has been a change in beneficial ownership or a change in the details of a beneficial owner on the beneficial ownership register. The individual should confirm the change within one month of receiving the Notice.

A Person who fails to comply with Notice issued under Regulation 7, Regulation 9 or Regulation 11, is liable, on summary conviction, to a class A fine of €5,000 or imprisonment for a term not exceeding

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12 months or both. A failure by the Natural person to notify the Entity within 30 days beginning from the change in their beneficial ownership is liable, on summary conviction, to a class A fine of €5,000

Where no beneficial owner can be identified, under Regulation 5(4) SI 110/2019, the name(s) of the Senior Managing official of the relevant entity should be entered on the beneficial owners register. Senior Managing official as defined under Regulation 2 of SI 110/2019 includes a director and a chief executive officer.

Who should file with the RBO?

Under Regulation 21(3) & 22 of SI 110/2019 an officer or employee of the company/society can discharge the company/society's obligation by completing the registration process on the RBO's on-line Registration Portal. Beneficial ownership information may be delivered to the Registrar by a person, referred to as the "presenter", acting on behalf of the company/ society.

The Officer, employee or presenter who files on behalf of the entity on RBO will need to supply the following information;

- Name
- Address
- Phone number
- Email
- Capacity in which they are acting

If the presenter is not a natural company, the contact details of a natural person should be included.

What are the Requirements?

Where and how do I file?

Beneficial ownership information can only be entered online only through a portal on the RBO website. There are no forms involved in filing data with the RBO and no filing fees. The system is similar to that of CRO CORE where a user ID and password is required to login. No paper forms are available.

Any entity in existence before 22 June 2019 must deliver the following information to the Central Register by 22 November 2019.

The responsibility of a company/society officers to obtain and confirm beneficial ownership, to keep the register current and the information contained correct, then to deliver such information in prescribed form to the RBO within the relevant time frame.

The same details must be entered in the internal register and in the RBO. Regulations 5(4) & (5) of SI 110/2019 requires the relevant entities shall keep records of the actions taken to identify their beneficial owners.

What letter needs to be sent out to members in order to cover the requirements under the beneficial ownership register?

Regulation 7 SI 110/2019 Notice is sent to the known members of the company to confirm whether they are beneficial owners or not. The individual should confirm whether they are a beneficial owner within one month of receiving the Notice.

Note: Regulation 7 is **not** required is the entity knows the beneficial owner and necessary information with their knowledge.

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Register of Beneficial Owners

If there is suspicion that a member has knowledge of who the beneficial owners are, a Regulation 9 Notice can be issued are them to confirm whether they know who the beneficial owners are.

Regulation 9 Notice may be given by an entity to any person who is believed to be aware of the identity of other individuals who may be beneficial owners.

Regulation 11 Notice is required where the entity believes that there has been a change in beneficial ownership or a change in the details of a beneficial owner on the beneficial ownership register.

What information is needed for the RBO?

The following information is required for each beneficial owner;

- Company/Society Name
- Company/Society Number
- Forename & Surname
- Residential Address
- Eircode (optional)
- Nationality
- Country of Residence
- Date of Birth
- PPS Number – this must match the name recorded by the Department of Employment Affairs and Social Protection (DEASP)
- Statement of the nature of interest/control – such as shareholder
- Statements of the extent of interest/control – such as % of shareholding
- Date of entry as beneficial owner
- Date of cessation as beneficial owner
- Presenter Details
- Name of presenter
- Address of presenter
- Phone number of the presenter
- e-Mail address of presenter
- Capacity in which the presenter is acting

The RBO is required to validate data entered on the central register to ensure the details are that of a natural person, failure for the details not matching may result in the submission being rejected.

See 'Access' section of this paper to ascertain what the general public can see.

What if I do not have a PPSN?

For beneficial owners who do not have a PPSN, the Registrar has determined under Regulation 21(2)(b), SI 110/2019, that the Form BEN2 will be the method to be used to verify the person's identity. The BEN2 form is available for download on the RBO website and once completed should be uploaded to the website. Once verified a RBO transaction number is issued which will be used for all future filing for that beneficial owner.

Part A of the BEN2 contains the first name, last name, date of birth, nationality and residential address of the beneficial owner. Part B of the form is to be completed where the declaration is made in the State and Part C is to be completed where the declaration is made outside the State. Where the declaration is being sworn outside the State, it should be sworn before a Notary Public.

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Once the BEN2 is completed in its entirety, Part A of the form, as detailed above, must be entered on the RBO Portal and the original BEN2 should be then uploaded as a PDF to the RBO portal as a new filing. If the details on the BEN2 do not match those details entered on the RBO Portal the submission will be rejected.

Once the submitted and approved, the RBO will issue the RBO transaction number to the Presenter, which will be used for all future filing for that beneficial owner.

Please note, one BEN2 will be required in respect of each beneficial owner and once this has been processed and an RBO Transaction Number issued by the Registrar, that Number can be used for making future beneficial ownership filings for that person.

Any relevant entity that fails to file a PPSN with the RBO where such a number has been assigned to a beneficial owner, and/or submits a BEN2 application where a PPSN exists for the beneficial owner, will have committed an offence and attention is drawn to Regulations 28(5) and 28(7) of S1 110/2019 in this regard:

28(5): A person who, in purported compliance with Regulation 20, 21, 22 or 23, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false, commits an offence and shall be liable -

- a. on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- b. on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 12 months or both.

28(7): Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

What happens if the information is incorrect?

If the error is genuine and the RBO are unable to validate the details, the RBO will by written correspondence contact the Beneficial owner(s) whose details were in error. The particular submission for that company/society containing the incorrect data will be rejected in its entirety. A new application will need to be completed and uploaded again through the RBO online filing portal. Under Data Protection legislation, the RBO will **not** contact the presenter.

How is the beneficial owners register maintained?

Where there has been a change in the details in the change of the beneficial ownership or a change in their details the register will need to be updated.

In the case where the entity is aware of a change to the Register, the entity must notify the RBO within 14 days of the change. Where the entity has suspicion of a change but are not certain of this change, the entity must issue a Regulation 11 Notice asking the person to confirm any changes and this should be sent back by that natural person within one month of receiving the Notice. Once the individual has confirmed the change the entity must notify the RBO within 14 days of the change.

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The foregoing notice shall be given by the relevant entity as soon as reasonably practicable after it learns of the change concerned or first has reasonable cause to believe that the change concerned has occurred.

The individual should confirm the change within one month of receiving the Notice.

Time Frame

The Regulations in relation to central RBO Register came into effect 22 March 2019, Regulations in relation to the central RBO register commenced on 22nd June 2019. Any company/society who has not filed on or before the 22nd November 2019, will be deemed to be late and may be subject to sanctions as prescribed in the Regulations.

I was incorporated after 22 June 2019; how long do I have to make the filing on the RBO?

Entities will have 5 months from the date of incorporation to make the required filings.

There has been a change to our beneficial owners register, what do we do?

When the relevant entity is updating the information held on the Beneficial Ownership Register (internal) the entity must also update the RBO within 14 days. Regulations 23(1) of SI 110/2019 defines this as the relevant entities 'follow up obligations'.

Access

Statutory Instrument No. 110 of 2019, divides access into two tiers – 'unrestricted access' and 'restricted access'

Unrestricted Access

The following bodies will have unrestricted access to the register;

- an Garda Síochána,
- the Financial Intelligence Unit (FIU) Ireland,
- the Revenue Commissioners,
- the Criminal Assets Bureau (CAB),
- the Central Bank of Ireland,
- the Department of Justice & Equality,
- the Property Services Regulatory Authority (PSRA),
- the Law Society of Ireland,
- the General Council of the Bar of Ireland, and
- an inspector appointed by the Director of Corporate Enforcement under section 764(1) of the Companies Act 2014.

The person within such authority must hold a particular rank in order to have unrestricted access.

Regulation 24(9) SI 110/2019 allows Garda Síochána, Revenue Commissioners, competent authorities and CAB to disclose the information in the central register to any corresponding competent authority of another Member State.

Those with Unrestricted access, have access to the following data;

- Foreman and Surname,
- Date of birth,

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- Residential address,
- Nationality,
- Statement of the nature and extent of the interest held by each beneficial owner, or the nature and extent of control exercised by, each such beneficial owner, and
- Date on which the beneficial owner was entered in the register as a beneficial owner and the date on which each person ceased to be a beneficial owner, and
- Details of the presenter making the entry in the RBO on behalf of the company.

Those with unrestricted access will not be able to access copies of Forms BEN2.

No fee shall be charged to a corresponding authority for the disclosure of the information in the central register.

Restricted Access

Currently the register will be open for public inspection through a search facility available on the RBO website for the following details for each beneficial owner;

- full name
- month and year of birth
- country of residence
- nationality
- nature and extent of the interest / control held

A charge may be payable for access to the above information for those with restricted access (approx. €2.50 - €3.50 per document)

PPS Numbers

PPS numbers are used to verify the data in the RBO only and will not be visible on the RBO and will not be shared with any third party (Regulation 21(5) of SI 110/2019).

Exemption

If the beneficial owner is a minor (under the age of 18) access to their information is exempt from access by the public as per Regulation 25(5) of SI 110/2019. A member of the public may provide a summary of the requested interest and grounds behind it in writing to the Registrar before access is given. The beneficial ownership details of minors will be automatically withheld from public access until they reach the age of 18.

Inspection

Inspections of the register

Regulation 5(6) of SI 110/2019 states that company/society's internal register must be available for inspection by any member of the Garda Síochána, Revenue Commissioners, competent authorities, CAB or an ODCE inspector appointed under S.764(1) of Companies Act 2014.

Consequences

Beneficial Owners Register

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Regulation 5 of SI 110/2019 Entity fails to obtain and hold information on its beneficial owners, to maintain Beneficial Ownership Register, and to include information of the beneficial owners on the Beneficial Owners Register, shall be liable:

- on summary conviction, to a Class A fine (€5,000), or
- on conviction on indictment, to a fine not exceeding €500,000.

An entity who fails to comply issue Notice under Regulation 7, Regulation 9 or Regulation 11 as applicable shall be liable to a Class A fine of €5,000.

A Person who fails to comply with Notice issued under Regulation 7, Regulation 9 or Regulation 11, is liable, on summary conviction, to a class A fine of €5,000 or imprisonment for a term not exceeding 12 months or both. A failure by the Natural person to notify the Entity within 30 days beginning from the change in their beneficial ownership is liable, on summary conviction, to a class A fine of €5,000

Filing

Reasons why the submission was rejected

Beneficial Owner(s) details are verified against the DEASP, if there is an error between what has been filed and what is registered with DEASP, the return will be rejected.

Common errors for returns being rejected are;

- PPSN is incorrect,
- Date of Birth is incorrect,
- Mismatch on names.

If there is any doubt regarding a beneficial owner(s) details the DEASP should be contacted to confirm. Details of individual DEASP centres can be found on the DEASP website under Public Service Identity.

The submission will need to be re-submitted once the correct details are found.

Discrepancies and Non-Compliance

Who can file discrepancies?

Discrepancies can only be reported by a 'designated person' or a 'relevant person'.

A 'Designated person(s)' as defined in Section 25 of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended, includes credit institutions, financial institutions, auditors, external accountants, tax advisors, property service advisors, casinos and any person trading in goods involving cash transactions totalling at least €10,000.

Where a 'designated person' is carrying out due diligence on an entity and forms the opinion that there is discrepancy between information on the RBO and the information the entity must hold in its internal register then in a timely manner the designated person shall deliver notice to the Registrar using a Form DN2 which is available on request from RBO at discrepancies@rbo.gov.ie

A 'Relevant person' is defined as a competent authority, Garda Síochána, the Revenue Commissioners or the Criminal Asset Bureau.

Where a 'relevant person' forms the opinion that there is a discrepancy between information on the RBO and the beneficial ownership information available to the 'relevant person', the relevant person

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in a timely manner should issue notice to the Registrar on the Form DN1 which is available on request from RBO at discrepancies@rbo.gov.ie

The RBO will not disclose the identity of the person/person(s) who reports a discrepancy.

Who can file non-compliance notices (NCN)?

Having searched the beneficial ownership details and the person searching has found no details have been filed they can notify the Registrar that the entity in question appears to have failed to file with the RBO in accordance of Regulations 20 and 21 of SI 110/2019.

NCNs can be found on the RBO portal and should be completed and emailed to RBO at discrepancies@rbo.gov.ie

What happens once I file a Discrepancy/Non-Compliance report?

For the Discrepancy report, DN1 and DN2, you will be notified of the outcome after the RBO has concluded its investigations.

Where a discrepancy report has been filed by a *'designated person'*, the Registrar will serve a notice on the relevant entity concerned which –

- (i) states that the foregoing notice has been received, and
- (ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the relevant entity to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines –
 - a) a submission as to why the relevant entity considers the opinion of the designated person concerned not to be well founded, or
 - b) if the relevant entity considers the opinion of the designated person concerned to be well founded, such amended particulars (for entry in the central register) as are required where the relevant entity is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved,

and such a request shall be complied with by the relevant entity accordingly.

Where a discrepancy report has been filed by a *'relevant person'*, the Registrar will serve a notice on the relevant entity concerned which –

- (i) states that the foregoing notice has been received, and
- (ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the relevant entity to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines –
 - a) a submission as to why the relevant entity considers the opinion of the relevant person concerned not to be well founded, or
 - b) if the relevant entity considers the opinion of the relevant person concerned to be well founded, such amended particulars (for entry in the central

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register) as are required where the relevant entity is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved, and such a request shall be complied with by the relevant entity accordingly.

For the Non-Compliance report, NCN you will be notified of the outcome after the RBO has concluded its investigations.

Beneficial Owners Register

Situational Questions & Answers



Webinar Qs

A. Listed Companies

Q1: Do Irish companies that are subsidiaries of listed UK companies (AIM) have to file on RBO?

A: Yes, subsidiaries of companies whose parent is on a regulated market has file their beneficial owner. Regarding the senior management officials Regulation 2 of Statutory Instrument 110/2019 defines a “senior managing official” as including a Director and Chief Executive Officer.

Please note, under Regulation 5(4) of SI 110/2019, it is not possible to select one member of the board, all members who hold a position of senior managing official details must be included

A listed company should seek its own legal advice in order to establish whether the market it is listed on is subject to disclosure requirements consistent with EU law or subject to equivalent international standards which ensure adequate transparency of ownership information.

Q2: In a case where there is an Irish Subsidiary whose parent is quoted on the Australian Stock Exchange - what are the obligations for the Irish Subsidiary?

A: If a company, incorporated in Ireland is a subsidiary of a listed company, the subsidiary company is still required to file details of its beneficial owners with the central register.

Q3: If a company is subsidiary of UK AIM listed company, I assume that company must file RBO. Is it the directors will go in as beneficial owners assuming nobody has 25% in the UK AIM listed company?

A: Yes, if a company incorporated in Ireland is a subsidiary of a listed company, the subsidiary company is still required to file details of its beneficial owners with the central register.

Where no beneficial owner can be identified, under Regulation 5(4) SI 110/2019, the name(s) of the Senior Managing official of the relevant entity should be entered on the beneficial owners register. Senior Managing official as defined under Regulation 2 of SI 110/2019 includes a director and a chief executive officer.

B. BEN2-section 12.1

Q4: What happens with non-resident beneficial owners with no PPS numbers?

A: For beneficial owners who do not have a PPSN, the Registrar has determined under Regulation 21(2)(b), SI 110/2019, that the Form BEN2 will be the method to be used to verify the person’s identity. The BEN2 form is available for download on the RBO website and once completed should be uploaded to the website. Once verified an RBO transaction number is issued to that beneficial owner, that RBO Number can be used for making future beneficial ownership filings for that person which will be used for all future filing for that owner.

Please note: any relevant entity that fails to file a PPSN with the RBO where such a number has been assigned to a beneficial owner, and/or submits a BEN2 application where a PPSN exists for the beneficial owner, will have committed an offence under Regulations 28(5) and 28(7) of SI 110/2019.



Q5: I have several non-resident shareholders, do they have to come to Ireland to get the BEN2 notarised?

A: Part B of the form is used when the declaration is being signed in Ireland and Part C is used when the declaration is sworn outside Ireland and must be signed by a Notary Public.

Please note, one BEN2 will be required in respect of each beneficial owner and once this has been processed and an RBO Transaction Number issued by the Registrar, that Number can be used for making future beneficial ownership filings for that person.

Q6: Does the BEN2 form also work for a UK beneficial owner?

A: Yes, the BEN2 form can be used for a beneficial owner(s) of a relevant entity who does not have an Irish Personal Public Service Number (PPSN).

Please note: any relevant entity that fails to file a PPSN with the RBO where such a number has been assigned to a beneficial owner, and/or submits a BEN2 application where a PPSN exists for the beneficial owner, will have committed an offence under Regulations 28(5) and 28(7) of S1 110/2019.

C. General Queries

Q7: Companies Involuntarily struck off - For instance if the board allow the company to be struck off (involuntary) albeit putting themselves at risk of sanction from CRO for allowing that to happen is the company then excused as regards this register? At what point in the demise of a company does the need to be on the register disappear?

A: If the company remains live on the CRO's Register, it still exists as a legal entity under the Companies Act 2014 and must adhere to the provisions set out in Statutory Instrument 110/2019 and continue to file its Beneficial Ownership details.

Only when a company has ceased to exist, that is, it has a status on the CRO registry of Dissolved or Struck Off will there no longer be a requirement for the company to file Beneficial Ownership details.

Q8: If someone hasn't had a communication with the DEASP for say 20 years, the DEASP will still have the 20 year old address. Obviously, many will have changed their address in that time, will this be a problem?

A: An address does not appear to be an issue for rejections with RBO. If your beneficial owners' details are incorrect, such as incorrect PPSN, spelling of the name etc, a letter will be sent to that beneficial owner(s) with the address supplied by the presenter when filing.

Q9: Can you explain the indirect control?

A: A shareholding of 25% plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.



Q10: Is the Company's Register of Beneficial Owners open for public inspection in the same way as the Register of Members?

A: Statutory Instrument No. 110 of 2019, divides access into two tiers – ‘unrestricted access’ and ‘restricted access’

The following bodies will have unrestricted access to the register;

- an Garda Síochána,
- the Financial Intelligence Unit (FIU) Ireland,
- the Revenue Commissioners,
- the Criminal Assets Bureau (CAB),
- the Central Bank of Ireland,
- the Department of Justice & Equality,
- the Property Services Regulatory Authority (PSRA),
- the Law Society of Ireland,
- the General Council of the Bar of Ireland, and
- an inspector appointed by the Director of Corporate Enforcement under section 764(1) of the Companies Act 2014.

The person within such authority must hold a particular rank in order to have unrestricted access.

Regulation 24(9) SI 110/2019 allows Garda Síochána, Revenue Commissioners, competent authorities and CAB to disclose the information in the central register to any corresponding competent authority of another Member State.

Those with Unrestricted access, have access to the following data;

- Foreman and Surname,
- Date of birth,
- Residential address,
- Nationality,
- Statement of the nature and extent of the interest held by each beneficial owner, or the nature and extent of control exercised by, each such beneficial owner, and
- Date on which the beneficial owner was entered in the register as a beneficial owner and the date on which each person ceased to be a beneficial owner, and
- Details of the presenter making the entry in the RBO on behalf of the company.

Currently the register will be open for public inspection through a search facility available on the RBO website for the following details for each beneficial owner;

- full name
- month and year of birth
- country of residence
- nationality
- nature and extent of the interest / control held



Q11: For charities with a board of directors as beneficial owner - do you have to keep the RBO updated any time there's a change in the board?

A: Under Regulation 23(5), any changes to the Board of Directors should be updated on the RBO within 14 days of the change to the entity's internal beneficial ownership register.

Q12: Is it possible to establish the precise name and address from DEASP to avoid rejection when filing?

A: Your beneficial owner will need to contact the DEASP in order to establish their precise details.

Q13: So if we cannot locate the date of entry as beneficial owner can we go with 15/11/2016?

A: Under Regulation (3) of S1 110/2019, the relevant entity shall enter the date on which each natural person was entered into the internal register as a beneficial owner or the actual date of becoming a beneficial owner of the company, if known. This date should not be earlier than the date of incorporation. This will either be the 16th November 2016, or the actual date of becoming a beneficial owner of the company, if known.

Q14: How can you find out the name per the PPS? 2 clients we do their payroll and income tax; for the payroll the RPN doesn't include the middle name, for the income tax their name on ROS includes the middle name. I tried with both names, and it failed both times. How are you supposed to know what is the issue with the name?

A: Your beneficial owner will need to contact the DEASP in order to establish their precise details.

Revenue records/correspondence may not necessarily correspond with DEASP record.

D. Situational Queries

Q15: Should it be the full board members & CEO or can you limit to the members with larger shareholding, even though still under 25% each

A: Under Regulation 5(4) of SI 110/2019, it is not possible to select one member of the board, all those who hold a position of senior managing official details must be included

The company/society must decide what natural person(s) controls the company/society and enter their names in their own internal register and in the RBO.

If, no natural person is identified as a beneficial owner, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of Senior Managing Official(s) shall be recorded on the RBO as the beneficial owner

Q16: A company with five 20% shareholders, who to I include on the register?

A: In this case the Board will be included on the RBO.



Q17: Where there is a golden share in place, who has beneficial ownership?

A: In the case of a company that issued a golden share, there are two tests. Test one is the look to see if there is a natural person that holds more than 25% of the share capital. If so, these are beneficial owners. The second test is to assess who the holder of the share is. The natural person holding the share is also considered a beneficial owner. If the golden share is held to a corporate entity the beneficial owners are the natural person(s) who directly/indirectly owns/controls the corporate body, this being any natural person(s) who holds or controls a shareholding of 25% plus one share, or an ownership interest of more than 25% in that corporate entity.

Q18: In a situation in a company where there are 5 share- holders owning 20% each of the company, do you enter in each of the 5 share- holders as Beneficial Owners?

A: In this case, it is the Directors who are deemed to be the beneficial owners as they have control over the company. It should be noted that ownership of shares is not the only method to determine the beneficial owner, it important to note control of voting rights, ownership interest and control via other means.

E. Filing

Q19: Does the email that comes to the submitter if rejected, give the reasons for the rejection.

A: No, an email is sent to the presenter stating that the submission has been rejected, this can also be seen on the RBO dashboard. The beneficial owner who details were in error will receive a letter from the RBO to state that their submission was rejected.

Q20: What happens if you use the actual date of filing rather than 15th Nov 2016

A: You can enter the date that the natural person became a beneficial owner. It will not reject the submission if it is prior to 15.11.2016.

Q21: How can you change form or put it right?

A: Once your submission has been accepted you can amend the Beneficial Ownership under 'Start New Filing' on the RBO.

Q22: Is it possible to obtain a copy of the return that you have submitted on RBO website?

A: If your application was accepted and registered you can obtain a copy by purchasing the ownership report.

Q23: Does the letter to the client whose details were incorrect state exactly why the submission was rejected?

A: No, however the letter will only be sent to the beneficial owner(s) whose details are incorrect. This can be used to narrow down the error. The data subject will need to contact the Department of Employment Affairs and Social Protection to verify their details.

Q24: When the form is rejected, do you have to start again to correct errors?

A: Yes, you will need to file a new submission if it is rejected.



F. Trust Queries

Q25: Would beneficiaries of trust not go into register instead of trustees? Also, what about minors that are beneficiaries?

A: Yes, the beneficiaries will go into the register if it is a bare trust, however if it is a discretionary trust the trustees are listed.-

If the beneficial owner is a minor (under the age of 18) access to their information is exempt from access (note: their information is still required to be filed) by the public as per Regulation 25(5) of SI 110/2019. A member of the public may provide a summary of the requested interest and grounds behind it in writing to the Registrar before access is given. The beneficial ownership details of minors will be automatically withheld from public access until they reach the age of 18.

Q26: Where shares in a company are held in a discretionary trust, should the beneficial ownership be completed as the trustees holding the shares or senior managing officials in the company?

A: In a discretionary trust the trustees are listed as the beneficial owners.

Mr lam Big
Any number
Any street
Any county
XYZ 123

Date: 01/06/2019

Dear Mr Big

Notice issued under Regulation 7 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

Interests in Small Enterprises Limited

The Directors of Small Enterprises Limited (Company No 123456) has reasonable to believe that you have a beneficial ownership in the company. The term 'Beneficial Owner' is defined in Section 2 (1) of SI 110/2019 which sets out as follows:

6 'Beneficial owner' means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council

(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;

The Directors of the company are formally issuing you notice under Regulation 7 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019. Regulation 7 requires that you respond within a calendar month of the date of this notice.

Your requirements are as follows:

- (i) Confirm that you are, or are not a Beneficial Owner of Small Enterprises Limited with reference to the definition included above
- (ii) If you are a beneficial owner you must furnish Small Enterprises Limited with the particulars requested below and confirm that they are correct.

Name	
Address 1	
Address 2	
Address 3	
Post Code	
Date of Birth	
Nationality	
Details of ownership/controlling interest	
PPS Number	

As set out above you are required by Regulation 7(3) to comply with this notice no later than one month beginning with the date of this notice and it should be pointed out that non-compliance is a criminal offence.

Please return your response to Company Name, Address 1, Address 2, Address 3.

Yours faithfully

Mr Com Pliance

Director

Mr lam Big
Any number
Any street
Any county
XYZ 123

Date: 01/06/2019

Dear Mr Big

Notice issued under Regulation 9 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

Interests in Small Enterprises Limited

The Directors of Small Enterprises Limited (Company No 123456) has reasonable to believe that you have information concerning the beneficial ownership of the company. The term 'Beneficial Owner' is defined in Section 2 (1) of SI 110/2019 which sets out as follows:

6 'Beneficial owner' means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council

(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;

Regulation 9 goes on to set out the requirements for a person believed to have information concerning beneficial ownership.

8 (1) The notice referred to in paragraph (2) of Regulation 8 is a notice, addressed to the person referred to in that paragraph, that requires the addressee

(a) to state whether or not the addressee knows the identity of

- (i) any natural person who is a beneficial owner of the server of the notice, or
- (ii) any person (whether a natural person or not) likely to have that knowledge, and
- (b) if so, to supply any particulars of any such person that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned.

(2) For the purposes of paragraph (1)—

(a) a reference to knowing the identity of a person includes a reference to knowing information from which that person can be identified, and

(b) a reference in subparagraph (b) of it to particulars is a reference

(i) in the case of the natural person referred to in paragraph (1)(a)(i) — to the particulars referred to in Regulation 4(2)(a) and (b), and

(ii) in the case of the person referred to in paragraph (1)(a)(ii) — to any particulars that will allow the person to be contacted by the relevant entity.

The Directors of the company are formally issuing you notice under Regulation 9 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019. Regulation 9 requires that you respond within a calendar month of the date of this notice.

Regulation 9 requires that you to:

- (i) State whether you know an Individual (Natural Person or other legal entity) who is a beneficial owner (as defined by Regulation 6) of Small Enterprises Limited; or
- (ii) State whether you know an individual or any person likely to have knowledge as to who is a beneficial owner.

If you have such information as required by Regulation in relation to (i) and (ii) immediately above, please complete the table below with as much detail as you can provide for all such owners that are known to you. In providing the particulars of any such person that are within your knowledge please state whether or not the particulars are being supplied with the knowledge of each person concerned.

Name	
Address 1	
Address 2	
Address 3	
Post Code	
Date of Birth	
Nationality	
Details of ownership/controlling interest	
Are these details supplied with the knowledge of the person entity named in row 'Name'	

A Personalised CPD Certificate of Completion will be forwarded to you upon completion of this course.
These notes do not serve as proof of completion alone.

As set out above you are required by Regulation 9(3)(b) to comply with this notice no later than one month beginning with the date of this notice and it should be pointed out that non-compliance is a criminal offence.

Please return your response to Company Name, Address 1, Address 2, Address 3.

Yours faithfully

Mr Com Pliance
Director

Mr lam Big
 Any number
 Any street
 Any county
 XYZ 123
 Date: 01/06/2019

Dear Mr Big

Notice to natural person to confirm occurrence of change issued under Regulation 11 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

Interests in Small Enterprises Limited

The Directors of Small Enterprises Limited (Company No 123456) has reasonable to believe that there has been a relevant change in your beneficial ownership in the company. The term 'Relevant Change' is defined in regulation 10 of SI 110/2019 which sets out as follows:

(2) For the purposes of this Regulation, a relevant change occurs if—

(a) the natural person referred to in paragraph (1) ceases to be a beneficial owner of the relevant entity, or

(b) any other change occurs as a result of which the particulars (stated in the foregoing register) in relation to the natural person are incorrect or incomplete.

The Directors of the company are formally issuing you notice under Regulation 11 of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019. Regulation 11 requires that you respond within a calendar month of the date of this notice.

Your requirements are as follows:

- (i) Confirm whether or not you have ceased to be a beneficial owner of Small Enterprises Limited
- (ii) State whether there has been a relevant change in the particulars your beneficial ownership and if so, advise the date and details of the change by amending the table below:
- (iii) Confirm or correct the particulars included in this notice and supply any that are missing from the notice

	Current	Amendments
Name	Mr lam Big	
Address 1	Any number	
Address 2	Any street	
Address 3	Any county	
Post Code	XYZ 123	
Date of Birth	31 March 1971	
Nationality	Irish	
Details of ownership/controlling interest	1) Shareholding of 25% plus one share 2) Voting rights of more than 25%	
PPS Number		

As set out above you are required by Regulation 11(3) to comply with this notice no later than one month beginning with the date of this notice and it should be pointed out that non-compliance is a criminal offence.

Please return your response to Company Name, Address 1, Address 2, Address 3.

Yours sincerely

Mr Com Pliance
Director

That the Director disclose his interest in the aforementioned transfer of shares and the Secretary be instructed to update the Register of Directors Interests in Shares and Debentures.

Beneficial Ownership Register

The Chairperson requested that the Secretary arrange for the beneficial ownership register of the Company be updated within 14 days and that the Register of Beneficial Ownership (RBO) be updated for this change.

OR

The Chairperson noted that as the transferee's issued shares are already included on the Register of Beneficial Ownership in the public domain then there was no need for this to be updated as the Transferee would still be the Beneficial Owner so there had been no change.

Any other business

There being no further business, the meeting then concluded.

Chairperson

Date

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

B1X Procedure

Audited abridged accounts were filed as a small company, when in fact they were a medium company. What needs to be done?

Under the Companies Act 2014, it is possible rectify financial statements that have been filed with the CRO which are incorrect. If the company becomes aware of an error in the Financial Statements, they should correct the error and file the corrected documentation with the CRO not more than 28 days after the date of revision.

To replace the existing financial statements lodged with the CRO a Form B1X must be prepared, signed and filed. Depending on the revision to be made the notes and disclosure requirements will vary.

Where copies of the original Financial Statements or original director's report have been laid before the company in a general meeting or delivered to the Registrar, all revisions should be made with reference to s.366 to s.379, CA 2014.

In the above situation, the financial statements will be replaced in its entirety as the Directors report and its disclosures required, in addition to the primary statements and notes will vary for a medium to that of a small entity.

The CRO guidance provides that where:

The revised Directors' Report¹ must include a statement from the Directors in a prominent position Section 369 stating that:

1. the revised Directors' Report replaces the original Directors' Report.
2. the revised Directors' Report is prepared as at the date of the original report and does not deal with events since that date, and
3. the respects in which the Directors' Report did not comply with the Companies Act 2014.
4. any significant amendments made important by the corrections

Based on this, proposed wording for inclusion in the director's report at the start might be as follows:

Statement for Revision of the Directors' Report in accordance with Section 369 of Companies Act 2014

The directors present their annual report and revised audited financial statements for the year ended 31 December 2016. The Directors' Report as presented in the original financial statements signed on XX date and filed with the Companies Registration Office on XX date have been replaced for that year. This revised Directors' Report has been prepared as at the date of the original financial statements and does not deal with events since that date. As detailed in Note X XXXX company does not qualify as a small company for the year end of 31 December 2016, accordingly the financial statements and Directors' Report have been revised to reflect the reporting disclosure

¹ Note: A revision and amendment to the directors report is only required where the existing directors report has availed of the small company regime exemption for disclosures and needs to be revised. i.e. a business review is not provided

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

requirements of a medium company under Companies Act 2014 including the filing of accounts which are not abbreviated. Other than the increased disclosure of information in the Directors' Report there were no other significant amendments made consequential upon the remedying of these defects

The signing and dating of the revised directors report will be for the same date as the original report was signed

Revision of the Financial Statements is done by replacement of the financial statements

- the Director's Statement on the revised Financial Statements must state in a prominent position that
 1. The original Financial Statements for that year are replaced.
 2. The revised Financial Statements are now the statutory Financial Statements for that year.
 3. The revised Financial Statements have been prepared as at the date of the original Financial Statements and do not deal with events since that date.
 4. How the original Financial Statements did not comply with the requirements of the CA2014.
 5. Any significant amendments made consequential upon the remedying of these defects.

The CRO require that the above statement is in a 'prominent position'² which is clearly identifiable as a separate page before the balance sheet within the revised financial statements.

Each Page of the revised financial statements should also include that they are 'revised' in the header.

Based on the above, a sample of this disclosure information might state:

"For the year ended 31 December 2016, the original financial statements signed on XX date and filed with the Companies Registration Office on XX date have been replaced for that year. These revised accounts for XXXX company representing the year end of 31 December 2016 are now the statutory financial statements for that year. These revised financial statements have been prepared as at the date of the original financial statements and do not deal with events since that date.

The original financial statements were prepared on the basis that XXXX company was entitled to avail of the small companies regime in Ireland and the exemptions available to an entity of that size including the filing of abridged accounts in accordance with Sections 352 & 353 of Companies Act 2014.

XXXX company does not qualify as a small company for the year end of 31 December 2016, accordingly the financial statements have been revised to reflect the reporting disclosure requirements of a medium company under FRS 102. Other than the increased disclosure of information [including the inclusion of a cash flow statement] the accounting treatment of items remains unaffected and there were no other significant amendments made consequential upon the remedying of these defects"

The signing and dating of the revised financial statements and primary statements will be for the same date as the original financial statements were signed

² Note: "Prominent position" is not defined in Section 368(2) Companies Act 2014 but that this is the CRO's interpretation based on rejected B1Xs.

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

Statutory Auditors report on the revised Financial Statements and revised report (s370 CA 2014)

- Where the original Financial Statements were audited or the revision means a loss of Audit exemption, the auditor will prepare a revised Auditors Report (s391, CA2014), and a report under s370, CA2014 giving an opinion whether :
 1. The revised Financial Statements have been properly prepared

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

2. A true and fair view as at the date of the original Financial Statements is given
3. In the statutory auditors opinion the original Financial Statements failed to comply with the requirements of the Act with reference to the Directors' Statement required by s368(2) CA2014
4. The information contained in the Directors' report (or revised Directors' report) is consistent with the revised Financial Statement.

Based on the above please see Appendix for proposed template

The signing and dating of the revised auditors report will be for the same date as the original report was signed

What additional work should the Auditor do?

While the Financial statements are being acknowledged as being limited and they do not deal with events since that date of signing of the Original financial statements. The auditor should obtain signed confirmation and acknowledgement of this fact from the directors.

It should be clearly documented in the audit file

- the basis for the revision and replacement of the financial statements
- Details of the changes made
- An assessment and review of the revisions made to the financial statements that the auditor is in agreement with the changes
- Consideration of the impact of the changes in how the revised auditors report should be amended and presented and if the changes impact on the opinion formed.
- As a result of the reporting revisions is there an obligation to report to the ODCE or not, i.e. were the problems identified in the financial statements as a result of improper books and records.

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

Example note in accounts where the Balance Sheet or/and Profit and Loss account has been corrected

Note X

These are revised financial statements and are replacing the original financial statements for the year ended 31 December 201X. These financial statements are now the statutory financial statements for the year ended 31 December 201X. They have been prepared as at the date of the original financial statements and not as at the date of the revision, and accordingly do not deal with events and transactions between these dates.

The original financial statements were non-compliant with Companies Act 2014 and Irish GAAP as they disclosed the incorrect issued share capital and bank balance etc. etc. etc. (AMENDAS APPLICABLE). Details of the amendment has been provided below:

	Original	Adjustment	Revised
Fixed assets			
Tangible fixed assets	XX	-	XX
Current assets			
Stock	XX	-	XX
Debtors	XX	-	XX
Cash at bank and in hand	<u>XX</u>	<u>XX</u>	<u>XX</u>
Creditors: amounts falling due in one year	<u>(XX)</u>	-	<u>XX</u>
Net current assets	XX	XX	XX
Net assets	XX	XX	XX
Capital and reserves			
Share capital presented as equity	XX	XX	XX
Profit and loss reserves	<u>XX</u>	-	<u>XX</u>
Shareholders funds	XX	<u>XX</u>	XX

REPLACEMENT OF FILED COMPANY AUDITED ACCOUNTS

Example note in accounts where unaudited accounts were submitted incorrectly to the CRO

Note X

These are revised financial statements and are replacing the original financial statements for the year ended 31 December 201X. These financial statements are now the statutory financial statements for the year ended 31 December 201X. They have been prepared as at the date of the original financial statements and not as at the date of the revision, and accordingly do not deal with events and transactions between these dates.

The original financial statements were non-compliant with Companies Act 2014 as they were unaudited when in fact a statutory audit was required. There have been no amendments to the financial statements other than the relevant disclosures required by the Companies Act 2014 in relation to audited financial statements **NOTE AMEND IF THEIR HAS BEEN ADJUSTMENTS.**

Samples extracts from auditors report

Audit Report

Opinion on revised financial statements

In our opinion the revised financial statements:

- give a true and fair view of the assets, liabilities and financial position of the company as at 31 December 201X and of its profit for the year then ended **and as at the date the original statutory financial statements were approved by the directors;**
- have been properly prepared in accordance with the relevant reporting framework and in particular, with the requirements of the Companies Act 2014: and

Other matters

In forming our opinion on the financial statements, which is not modified, we have considered the adequacy of the disclosures made in Note X to the revised financial statements. The original financial statements were prepared as audit exempt when in fact an audit was required.

Matters on which we are required to report by the Companies Act 2014

- We have obtained all the information and explanations which we consider necessary for the purposes of our audit;
- In our opinion the accounting records of the company were sufficient to permit the revised financial statements to be readily and properly audited;
- The revised financial statements are in agreement with the accounting records;
- In our opinion the information given in the directors' report is consistent with the revised financial statements;
- In our opinion the original financial statements gave a true and fair of the assets, liabilities and financial position of the company as at 31 December 201x and its profit for the year then ended at the date on which they were approved; and
- In our opinion the original statutory financial statements failed to comply with Companies Act 2014 for the reasons set out in Note X to these revised financial statements.

AUDITORS REPORT FOR A REPLACEMENT OF FILED FINANCIAL STATEMENTS – Old Form Audit Opinion

Statutory auditors report in accordance with section 370 of companies act 2014 to the members of XYZ Medium/Large Company Limited on the revised financial statements for the year ended 31 December 2016.

We have audited the financial statements of **OmniPro Sample Medium/Large** Company Limited for the year ended 31 December 2016, which comprises of Profit and Loss Account, the Balance Sheet, Statement of Cashflows, Statement of Changes in Equity and the related notes. The financial reporting framework that has been applied in their preparation is Irish law and accounting standards issued by the Financial Reporting Council [and promulgated by Chartered Accountants Ireland²] (Generally Accepted Accounting Practice in Ireland), including FRS 102 "The Financial Reporting Standard applicable in the UK and Republic of Ireland.

This report is made solely to the company's members as a body in accordance with Section 391 of the Companies Act 2014. Our audit work has been undertaken so that we might state to the company's members those matters that we are required to state to them in the audit report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company or the company's members as a body for our audit work, for this report, or for the opinions we have formed.³

Respective responsibilities of directors and auditors

As explained more fully in the Directors' Responsibilities Statement set out on page 9, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view and otherwise comply with Companies Act 2014. Our responsibility is to audit and express an opinion on the financial statements in accordance with Irish law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's [APB's] Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements.

In addition, we read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion on financial statements

In our opinion, the **revised** financial statements:

- give a true and fair view of the assets, liabilities and financial position of the company as at 31 December 2017 and of its profit for the year then ended **and as at the date the original statutory financial statements were approved by the directors;**
- have been properly prepared in accordance with Financial Reporting Standard 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland*; and
- have been prepared in accordance with the requirements of the Companies Act 2014.

² Deemed best practice for firm's regulated by Chartered Accountants Ireland

³ Paragraph included as best practice

AUDITORS REPORT FOR A REPLACEMENT OF FILED FINANCIAL STATEMENTS – Old Form Audit Opinion

In our opinion, the original statutory financial statements failed to comply with the requirements of Companies Act 2014, as required by section 370(6) disclosure of this by the directors is made in note X.

Matters on which we are required to report by the Companies Act 2014

- We have obtained all the information and explanations which we consider necessary for the purposes of our audit.
- In our opinion the accounting records of the company were sufficient to permit the financial statements to be readily and properly audited⁴.
- The financial statements are in agreement with the accounting records
- The information given in the revised Director’s Report is consistent with the revised financial statements.

Matters on which we are required to report by exception

We have nothing to report in respect of our obligation under the Companies Act 2014, which require us to report to you if, in our opinion, the disclosures of directors’ remuneration and transactions specified by sections 305 to 312 of the Act are not made⁵.

Signed by:

Personal name of auditor
 For and on behalf of:
 Compliant Accountant & Co⁶

Date: _____

Chartered	ACCA	CPA	
Chartered Accountants Statutory Audit Firm, Accountants Row, Any County	Chartered Certified Accounts & Statutory Auditors/Statutory Auditor, Accountants Row, Any County	Certified Public Accountants & Statutory Audit Firm, Accountants Row, Any County	

⁴ Where the company has material branches, this notation can be expanded by including “and information and returns adequate for our audit have been received from branches of the company not visited by us.”

⁵ Sections 305 to 312 CA 2014 – Particulars of Directors remuneration and transactions not disclosed

⁶ The firm name must reflect the name of the firm as it appears on the public register of the Registrar of Companies

AUDITORS REPORT FOR A REPLACEMENT OF FILED FINANCIAL STATEMENTS – NEW IAASA Audit Opinion

Statutory auditors report in accordance with section 370 of companies act 2014 to the members of XYZ Medium/Large Company Limited on the revised financial statements for the year ended 31 December 2017.

Opinion

We have audited the financial statements of XYZ Medium/Large Company Limited (the ‘company’) for the year ended 31 December 2017 which comprise Profit and Loss Account, the Balance Sheet, Statement of Cashflows, Statement of Changes in Equity and the related notes ⁷, including a summary of significant accounting policies set out in note 2. The financial reporting framework that has been applied in their preparation is applicable Irish law and Accounting Standards, including Financial Reporting Standard 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland*.

In our opinion, the **revised** financial statements:

- give a true and fair view of the assets, liabilities and financial position of the company as at 31 December 2017 and of its profit for the year then ended **and as at the date the original statutory financial statements were approved by the directors;**
- have been properly prepared in accordance with Financial Reporting Standard 102 *The Financial Reporting Standard applicable in the UK and Republic of Ireland*; and
- have been prepared in accordance with the requirements of the Companies Act 2014.

In our opinion, the original statutory financial statements failed to comply with the requirements of Companies Act 2014, as required by section 370(6) disclosure of this by the directors is made in note X.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (Ireland) (ISAs (Ireland)) and applicable law. Our responsibilities under those standards are further described in the Auditor’s responsibilities for the audit of the financial statements section of our report. We are independent of the company in accordance with the ethical requirements that are relevant to our audit of the financial statements in Ireland, including the Ethical Standard as issued by the Irish Auditing and Accounting Supervisory Authority (“IAASA”), and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs require us to report to you where:

- the directors’ use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the directors have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the company’s ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information⁸

The other information comprises the information included in the annual report⁹, other than the financial statements and our auditor’s report thereon. The directors are responsible for the other information. Our

⁷ The terms used to describe the primary financial statements should be the same as those used by the directors.

⁸ “Other Information” must be included in an audit report in Ireland under ISA 720 P21.

⁹ The term used to describe the annual report should be the same as that used by the directors.

AUDITORS REPORT FOR A REPLACEMENT OF FILED FINANCIAL STATEMENTS – NEW IAASA Audit Opinion

opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon. In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Opinions on other matters prescribed by Companies Act 2014

In our opinion, based on the work undertaken in the course of the audit:

- we have obtained all the information and explanations which we consider necessary for the purposes of our audit;
- the accounting records of the company were sufficient to permit the financial statements to be readily and properly audited¹⁰;
- the financial statements are in agreement with the accounting records;
- the information given in the **revised** Director's Report is consistent with the **revised** financial statements; and
- the Director's Report has been prepared in accordance with the Companies Act 2014.

Matters on which we are required to report by exception

Based on the knowledge and understanding of the Company and its environment obtained in the course of the audit, we have not identified any material misstatements in the directors' report.

The Companies Act 2014 requires us to report to you if, in our opinion, the disclosures of directors' remuneration and transactions required by sections 305 to 312 of the Act are not made. We have nothing to report in this regard.

Responsibilities of directors

As explained more fully in the directors' responsibilities statement on page X, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the directors determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the directors are responsible for assessing the company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the company or to cease operations, or have no realistic alternative but to do so.

¹⁰ Where the company has material branches, this notation can be expanded by including "and information and returns adequate for our audit have been received from branches of the company not visited by us."

AUDITORS REPORT FOR A REPLACEMENT OF FILED FINANCIAL STATEMENTS – NEW IAASA Audit Opinion

Auditor’s responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor’s report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (Ireland) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the IAASA website at: http://www.iaasa.ie/getmedia/b2389013-1cf6-458b-9b8f-a98202dc9c3a/Description_of_auditors_responsibilities_for_audit.pdf.

The purpose of our audit work and to whom we owe our responsibilities

This report is made solely to the company's members as a body in accordance with Section 391 of the Companies Act 2014. Our audit work has been undertaken so that we might state to the company's members those matters that we are required to state to them in the audit report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company or the company’s members as a body for our audit work, for this report, or for the opinions we have formed.¹¹

Signed by:

Personal name of auditor

Date: _____

For and on behalf of:

Compliant Accountant & Co¹²

Chartered	ACCA	CPA
Chartered Accountants & Statutory Audit Firm, Accountants Row, Any County	Chartered Certified Accounts & Statutory Auditors/Statutory Auditor, Accountants Row, Any County	Certified Public Accountants & Statutory Audit Firm, Accountants Row, Any County

¹¹ Paragraph included as best practice

¹² The firm name must reflect the name of the firm as it appears on the public register of the Registrar of Companies