



Companies Act 2014

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Contents

- What's it all about?
- New types of Companies
- What do we need to do now?
- Transition Period
- What does it mean for Directors?
- Tax and Liquidation Matters
- Filing thresholds & Audit Exemptions
- Accounting Matters

What's it all about?

- Company Law 1963 -2013
 - 17 Acts and 15 Statutory Instruments
- Companies Act 2014 consolidates
 - 25 parts, 1400 Sections, 2 Volumes
- Enacted 23 December 2014
- Commencement 1 June 2015
- Aim to simplify

New Types of Companies

- Private Company Limited by Shares (LTD)
- Designated Activity Company (DAC)
- Unlimited Companies (ULC)
- Public Limited Company (PLC)
- Guarantee Company (CLG)

Main Features of LTD

- Only One Director Required
- Separate Company Secretary with requisite skills
- Single document constitution – no objects clause
- Register those entitled to bind the company
- No need for AGM!!

Main Features of LTD

- Full unlimited capacity to do whatever
- No authorised share capital
- Name must end in Limited or LTD
- No name change needed

Main Features of DAC

- Must Have Two Directors
- One of the Directors can be Secretary
- Needs AGM if not single member
- Must have an M&A with objects clause
- Name must end in DAC

Why a DAC?

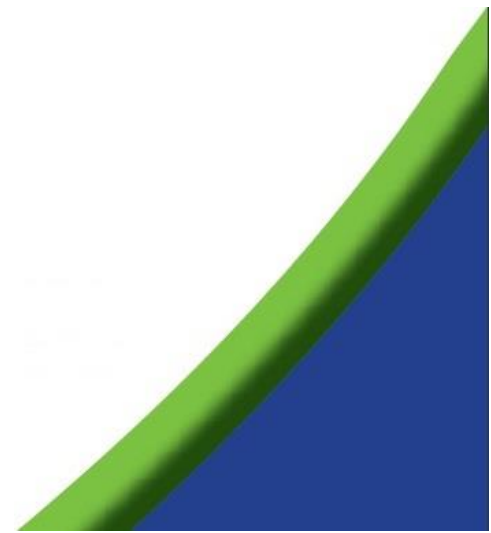
- Need an objects clause
 - JV with confined capacity
 - Specified company activities
- Banks/Insurance Cos can not be LTD
- Name must end in DAC
- Changes required to websites/stationery etc..

Unlimited Companies

- Continues to have M&A with Objects Clause
- Must Have 2 Directors
- Can now be single member
- No need for Director Compliance Statement
- Name ends “Unlimited Company” or “ULC”

Public Limited Companies

- Stock Exchange Listing
- Continues to have M&A and objects clause
- No name change
- 2 Director Requirement



CLG

- Used by Charities, Clubs and Management Companies
- Continues to have M&A and objects clause
- Can have one member (was 7)
- Can dispense with AGM if just one member
- Can avail of audit exemption – watch Charities!!
- Name change to “CLG”
- 2 Director Requirement

What do we need to do?

- The Transition Period
 - 18 months to 30 November 2016
 - DAC rules apply
- The Options
 - Convert to LTD/DAC
 - Apply to change name
 - Re registration process available
 - Do Nothing!!

Conversion to LTD

- 18 month transition period
- Sect 59 - members petition Directors
- Sect 60 – Directors drive process
- Drop the Objects Clause – unlimited capacity
- May add regulations to constitution

Conversion to LTD

- Submit new constitution - Form N1
- CRO issue new cert stating company is LTD
- Can avail of benefits once conversion complete
- After 30 November 2016 - new certs issue

Conversion to DAC

- Members wish to become DAC
 - Pass ordinary resolution within 15 months
 - 25% of members can petition Board
- Creditor Driven
 - Creditor holding 15% of the debentures
 - Court Order
 - Consider LTD to be unsuitable
- Submit Form N2 by 31 August 2016

Apply to Change Name

- 18 month transition period
- Applies to any other company
- Board Meeting & Members Resolution
- Submit Form N3
- Do Nothing?

Directors

- Codified Statement of Directors Duties
- Company Secretary
- Directors Compliance Statements
- Directors Disclosure Requirements
- Indictable Offences
- Summary Approval Procedures
- Directors Loans

Codification

Eight Fiduciary Duties

- Act in good faith
- Act honestly and responsibly
- Act in accordance with constitution
- Pre approval to use company property
- Use discretion in company's best interest
- Avoid conflicts of interest
- Exercise care, skill and due diligence
- Regard for interest of members & employees

Company Secretary

- Overseer of day to day administration of company
- Responsibility for complying with Companies Act now moved to Directors
- Must have necessary skills or resources
- Acknowledge responsibilities on appointment
- A Body Corporate may act as Company Secretary

Compliance Statement

- Accounting periods commencing after 1 June 15
- Balance sheet total >€12.5m & Turnover >€25m
- All PLCs
- Include in Directors Report
- Acknowledges Directors responsibility for complying with laws and obligations
- Confirm existence of policy statement
- Structures and arrangements in place
- Regular review of structures

Statement on Relevant Audit Information

- Accounting periods commencing on/after 1 June 15
- Directors confirm all relevant information provided to auditor
- Taken all reasonable steps
- Increased Responsibilities - Statutory footing

Directors Disclosure Requirements

- Disclose interest in company unless < than 1%
- Disclosure of directors remuneration
 - Any Director for any time during year
 - Current and preceding year
 - Gains made on exercise of share options
- NEW - payments to connected persons
 - Children, spouses and family members

Indictable Offences

- All offences allocated into four categories with set penalties
- Category 1 – 10 years prison – fine max €500k
- Category 2 – 5 years prison – fine max €50k
- Category 3 - 6mth prison – fine max €5k
- Category 4 – Fine max €5k

Summary Approval Procedures

- Aim to simplify procedures and reduce costs
- Replaces existing procedures to authorise transactions
- Validation procedure for restricted transactions
 - Financial Assistance for acquiring own shares
 - Loans to Directors and Connected Parties
 - Members Voluntary Winding Ups
 - Mergers
 - Reduction of Share Capital
 - Variation of capital on reorganisations

Summary Approval Procedures

- Members special resolution approving transaction
- Directors Declaration re post completion solvency
 - Company able to pay debts and liabilities 12 months after the restricted activity
- No independent accountant report for
 - Financial Assistance for acquiring own shares
 - Loans to Directors and Connected Parties
- Other transactions - auditor to declare directors not unreasonable

Directors Loans

- Loans from Directors to a Company
 - Undocumented loans presumed to be gift
 - Unless defined may be deemed to:
 - Bear no interest
 - Not be secured
 - Be subordinate to all other debts
 - Documentation can cover all of the above

Directors Loans

- Loans from Company to Directors
 - Prohibited with exceptions
 - Auditors certification replaced by SAP
 - Declaration on background and requirement for loan
 - Company able to discharge all debts for up to 12 months
 - Potential exposure to unlimited personal liability
- Tax Rules on Director Loans – No change
 - BIK/Income Tax remains

Liquidation Matters

- High Court Liquidation
 - Moves to Creditors Liquidation
- Members Voluntary
 - Summary Approval Procedures
 - No advertisement for Final Meeting

Liquidation Matters

- Creditors Voluntary Liquidation
 - State name of proposed liquidator
 - Attach list of creditors
 - Pre Liquidation Costs
 - Notice by Liquidators
 - Annual Meeting – Committee of Inspection
 - Unfair v Fraudulent
 - Adequate Accounting Records v Proper Books of Account
 - No lien over Books
 - Restriction Undertaking to ODCE
 - Qualification of Liquidator
 - Liquidator Remuneration

Liquidation Matters

- Scheme of Arrangements
- Receiverships

Filing Thresholds

- No change to small company thresholds
 - Turnover €8,800,000
 - Balance Sheet Gross Total €4,400,000
 - Average Number of employees 50
- Medium company thresholds increased
 - Turnover €20 million (was €15.2 million)
 - Balance Sheet Total €10 million (was €7.6million)
 - Average Number of employees 250
- 2 out of 3 for current & preceding periods

Audit Exemptions

- Old Act - 3 of previous criteria for small company exemption
- New Act – only need to satisfy 2 out of 3 as with filing
- ARD dates still apply
- New Small Group Exemption
- Dormant companies in large groups can avail
- CLG can avail of audit exemption
- Members can block exemption

Audit Exemptions

- Prohibition for certain companies
 - Authorised Investment firm
 - Central Bank Regulated
 - Building Society/Credit Unions
 - Investment company
 - Insurance Intermediary

- **LATE FILERS!!!!**

Accounting Matters

- Financial Periods
- Revision of financial statements
- Other Innovations

Financial Periods

- First Financial period – Max 18 months
- Subsequent periods 12 months +/- 7 days
- Alter year end date once in 5 years
- Hold Co & Sub Co y/e to be same
 - Can have Option to explain why not

Revision of Fin Stats

- Previously no option to revise once filed
- Directors can now revise financial statements
- No impact on primary statements – note
- Otherwise revised financial statements must be filed within 28 days of revision
- Updated Auditors Report
- Approve next scheduled AGM

Other Innovations

- Audit Committee
 - Public Interest Entities – PLCs, Banks, Ins Cos
 - Large Companies T/O > €50m & Assets > €25m
- Age Requirement for Directors
- Some Terminology Changes
- References, Citations and Disclosures
- Tables of Origins and Destinations



ANY QUESTIONS??

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