



# THE COMPANY SECRETARY

INFORMATION LEAFLET NO. 16 / JULY 2009

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# 1. INTRODUCTION

## 1.1 CRO

The CRO is the central repository of public statutory information on Irish companies. It operates under the aegis of the Department of Enterprise, Trade and Employment. The Public Office is located at Parnell House, 14 Parnell Square, Dublin 1. Postal enquiries can be directed to the CRO at O'Brien Road, Carlow, County Carlow.

### 1.1.2 The CRO's main functions are as follows:

- Incorporation of companies
- Registration of business names
- Registration of company post-incorporation documentation
- Registration of changes in business name particulars
- Enforcement, prosecution and striking companies off the register
- Provision of information to the public

## 1.2 Opening hours

The CRO is open to the public every working day from 9.30am to 4.30pm. The Office's Information Unit may be contacted during normal working hours at Lo Call 1890 220 226\*/01 804 5200. Clients are also invited to contact the Office by email at [info@cro.ie](mailto:info@cro.ie).

## 1.3 Methods of access to information on companies

All statutory information provided by companies to the CRO is available to the public for inspection on payment of a small fee. While Appendix 1 of this leaflet gives the appropriate fee at the time of publication, the level of fees may vary. Details of the current fees are always available from the Office or on [www.cro.ie](http://www.cro.ie).

**1.3.1** Certain vital information, such as company name and registered office address, may be checked free of charge at [www.cro.ie](http://www.cro.ie). If you need more detailed company information such as an annual return, company accounts or company printout, these can be ordered and paid for online using a credit/debit card. Alternatively you can open a CRO deposit account.

This search facility provides round-the-clock access to company information. It is identical to that available in the CRO Public Office and results are emailed instantly. For further information regarding online services, visit [www.cro.ie](http://www.cro.ie), email [electronic\\_filing@entemp.ie](mailto:electronic_filing@entemp.ie) or telephone CRO Electronic Filing Section. For further information on opening a deposit account, email [info@cro.ie](mailto:info@cro.ie) or telephone CRO Accounts Section, (059-9178828).

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

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

**1.3.4** All statutory information supplied by companies is kept on files by the CRO; in paper format in the case of companies formed prior to 3 May 1990, and in electronic format for companies incorporated since that date. All company documents received in the CRO since 11 March 1991 are stored on a computerised imaging system.

**1.3.5** Files in paper format may be inspected during opening hours and may not be removed from the Office. Photocopying facilities are available in the Office. Scanned images of documents stored on the imaging system may be ordered online using a credit/debit card or by CRO account holders, by post,

\*Note that the rates charged for the use of 1890 (LoCall) numbers may vary among different service providers.

or at the Office. For further information regarding online services, visit [www.cro.ie](http://www.cro.ie), email [electronic\\_filing@entemp.ie](mailto:electronic_filing@entemp.ie) or telephone Electronic Filing Section. (01) 8045374/5355.

For further information on opening a deposit account, email [info@cro.ie](mailto:info@cro.ie) or telephone Accounts Section. (059-9178828).

## 1.4 Electronic filing

You can file a number of CRO forms online at [www.core.ie](http://www.core.ie), either free of charge or for a lower fee than paper forms. CORE (Companies Online Registration Environment) allows you view in a secure, private, online environment up to date information on companies and to receive notification of filings for your companies and changes in their status.

For further information, visit [www.core.ie](http://www.core.ie), email [electronic\\_filing@entemp.ie](mailto:electronic_filing@entemp.ie) or telephone Electronic Filing Section. (01) 8045374/5355.

## 1.5 Types of company

There are two basic company types, a private company and a public company. The majority of companies registered in Ireland are private companies and, of those, most are small with only one or two members. This leaflet is principally aimed at the secretaries of small, private limited companies. It is a brief guide only and details the main acts/duties and functions of a company secretary.

## 1.6 Caution

This leaflet is written in general terms. While the staff of the CRO will answer any questions you might have relating to the documents a company is required to file, you should consult your professional adviser (e.g. chartered secretary, solicitor, accountant, etc.) if further assistance is required as to the duties of the company secretary or company law matters generally.

## 1.7 How to use this leaflet

This leaflet is divided into five chapters. The first is an introduction to the CRO. The second consists of questions and answers about the procedural requirements relating to a company secretary. The third chapter details the role and duties of a company secretary while the fourth and fifth chapters set out the requirements for filing forms in the CRO (forms which the company secretary is normally responsible for filing in the CRO) and hints for completing forms for the CRO.

## 1.8 Thanks

The CRO wishes to thank Tony O'Dwyer, former President of the Irish Region of the Institute of Chartered Secretaries and Administrators, for his assistance in producing this leaflet.

**All forms (and associated current filing fees) and information leaflets referred to in this publication can be downloaded from [www.cro.ie](http://www.cro.ie). See the Publications area of the site.**

## 2. COMPANY SECRETARY – PROCEDURAL REQUIREMENTS

### 2.1 Does every company need a company secretary?

Yes, every company registered under the provisions of the Companies Acts 1963-2009, is required to have a company secretary (“the secretary”). This includes single member private limited companies.<sup>1</sup> The company secretary and the directors are considered to be the officers of the company.<sup>2</sup>

### 2.2 Who can act as company secretary?

Every company must have a minimum of two directors, and the secretary may be one of the directors of the company. A body corporate may act as secretary to a company (but not to itself).

### 2.3 What qualifications does a company secretary need?

The secretary of a private company is not required to have any formal qualifications. However in a public limited company (plc), the directors must take all reasonable steps to ensure that the secretary (or each joint secretary) is a person who appears to them to have the requisite knowledge and experience to carry out the functions of secretary and who:<sup>3</sup>

- (a) held the office of secretary of the company on 25 May 1991; or
- (b) for at least three years of the five years immediately preceding his/her appointment as secretary held the office of secretary of a company; or
- (c) is a member of a body for the time being recognised for the purposes of section 236 by the Minister for Enterprise, Trade & Employment (to date, only the Institute of Chartered Secretaries and Administrators has been so recognised by the Minister); or
- (d) is a person who by virtue of his/her holding or having held any other position or his/her being a member of any other body appears to the directors to be capable of discharging those functions.

### 2.4. What details must be recorded by a company in relation to the company secretary?

A company is obliged to keep at its registered office a register of its directors and secretary. The following information is required to be recorded in this register in relation to the secretary:

- Where the secretary is an individual, his/her present name, former names and his/her usual residential address.
- Where the secretary is a body corporate, its name and registered office.<sup>4</sup>

Where all the partners in a firm are joint secretaries of a company, the name and principal office of the firm can be given.

The secretary is obliged to give information to the company to enable it to keep an accurate register.

A company is also required to keep a register of directors’ and the secretary’s interests in shares and debentures.<sup>5</sup> A secretary is required to disclose to the company his/her interest in shares held by him/her in the company.<sup>6</sup> The secretary is obliged to notify the company in writing of his/her interest in shares or debentures of the company and the number of shares of each class and the amount of debentures of each class in which he/she holds in that company and its holding and subsidiary companies. He/she is also obliged to notify the company where he/she enters a contract to sell any such shares or debentures, assigns or exercises a right granted to him/her to subscribe for shares or debentures in the company or receives a right to subscribe for shares or debentures in the company’s holding company subsidiary or fellow subsidiary.

<sup>1</sup> Section 175 Companies Act 1963

<sup>2</sup> Section 2 Companies Act 1963

<sup>3</sup> Section 236 Companies Act 1990

<sup>4</sup> Section 195(4) Companies Act 1963

<sup>5</sup> Section 59 Companies Act 1990

<sup>6</sup> Section 53 Companies Act 1990

## 2.5 What information must be notified to the CRO in connection with the company secretary?

When notifying the CRO of any particulars or changes in particulars relating to a company or its officers, it is necessary to use the correct form. A list of these forms is given in Appendix 2 and may be downloaded from [www.cro.ie](http://www.cro.ie).

The name of the first secretary and his/her consent to acting in that capacity must be sent to the CRO with the memorandum and articles of association of the company – such person is then deemed to have been appointed as secretary.<sup>7</sup> This information is furnished to the CRO on **Form A1**, the original application form for the setting up of a company. Subsequent appointments of a secretary will be in accordance with the articles of association of the company. A commonly adopted article is Article 113 of Table A of the Companies Act 1963 which provides that:

*“The secretary shall be appointed by the directors for such term, at such remuneration, and upon such conditions as they think fit and any secretary so appointed may be removed by them.”*

Details of the secretary appointed subsequent to a company's formation must be notified to the CRO on **Form B10**; the company is obliged to file this form in the CRO within 14 days of any change in its secretary. The form includes a consent to act as secretary which must be signed by the person who is being appointed as such. Details of any changes in the particulars concerning its secretary (i.e. change of address), as well as of the resignation of a secretary, must also be notified to the CRO by the company on a Form B10. This form may be filed electronically free of charge at [www.cro.ie](http://www.cro.ie). It is an offence to fail to file a Form B10 with the CRO.

Where a person holding the office of secretary has died, a person may give notice of this to the CRO on **Form B70**. An **official** copy of the death certificate is required to be appended to this form. It should be noted, however, that the primary obligation to notify changes in secretary/directors rests with the company which is obliged to deliver a Form B10. There is no need to file a Form B70 if the company has delivered a Form B10, notifying it as to the termination of appointment of the secretary and his replacement.

<sup>7</sup> Section 3 Companies (Amendment) Act 1982

### 3. ROLE AND DUTIES OF A COMPANY SECRETARY

#### 3.1 What are the duties of a company secretary?

There is an express statutory duty on each director and secretary of a company to ensure that the requirements of the Companies Acts are complied with by the company.<sup>8</sup>

Apart from the foregoing, although the secretary is an officer of the company, the Companies Acts 1963-2009 do not expressly state the duties of a secretary. A secretary's duties (which are frequently extensive), his/her conditions of appointment and entitlement to remuneration will be laid down by the directors of the company. A secretary may have a contract of service or a contract of employment with the company, which may be an oral contract or in writing.

The Companies Acts 1963-2009 impose a number of tasks on the secretary, but few are his/her exclusive responsibility. Frequently, the task may be performed by the secretary and a director (one such duty is the secretary's duty to sign the annual return, which also requires the signature of one of the directors) or by either a secretary or a director.

Many of the provisions of the Companies Acts, which criminalise default by a company, further provide that any officer of the company who is in default shall also be liable to a fine or a penalty. An officer in default is defined as any officer who "authorises, or who, in breach of his duty as such officer, permits the default" in question.<sup>9</sup> An officer will be presumed to have permitted a default by a company unless he/she can establish that he/she took all reasonable steps to prevent it, or that, by reason of circumstances beyond his/her control, was unable to do so.

The functions of a secretary are essentially administrative and not managerial. For instance, a secretary commonly:

- provides comprehensive legal and administrative support and guidance to the board of directors
- ensures that the board's decisions and instructions are properly carried out and communicated
- has responsibility to ensure that the company complies with all relevant statutory and regulatory requirements
- has responsibility for communication with the shareholders when required
- acts as principal administration officer, liaising with staff, customers, suppliers, media and the board of directors
- executes important documentation on behalf of the company, together with a director

It is also common for the secretary to undertake the following specific duties:

#### **(a) Maintaining the statutory registers and minute books**

The secretary keeps up to date the various statutory registers which are required to be maintained by the company under the Companies Acts 1963-2009. These are the:

- register of members<sup>10</sup>
- register of directors and secretaries<sup>11</sup>
- register of directors' and secretaries' interests in shares and debentures<sup>12</sup>
- register of debenture holders<sup>13</sup> together with copies of the instruments which create charges<sup>14</sup>

The maintenance of a company's statutory records is more fully described in Appendix 3.

<sup>8</sup> Section 383(3) Companies Act 1963, inserted by section 100 Company Law Enforcement Act 2001

<sup>9</sup> Section 383(1) Companies Act 1963, inserted by section 100 Company Law Enforcement Act 2001

<sup>10</sup> Section 116 Companies Act 1963

<sup>11</sup> Section 195 Companies Act 1963

<sup>12</sup> Section 59 Companies Act 1990

<sup>13</sup> Section 91 Companies Act 1963

<sup>14</sup> Section 109 Companies Act 1963

## **(b) Convening meetings of members**

The Companies Acts lay down minimum statutory periods of notice of company meetings required to be given to shareholders and the company's auditor. At least 21 clear days' written notice of an annual general meeting (AGM) is required. For an extraordinary general meeting (EGM) of a private company or an unlimited company, at least seven clear days' written notice must be given in writing. In the case of a plc, at least 14 clear days' written notice of an EGM is required to be given.<sup>15</sup>

Where it is proposed to pass a special resolution at a meeting, the notice is required to specify the wording of the proposed special resolution.

Where all the members of a company who are entitled to attend and to vote at a meeting unanimously agree to call a meeting, then, notwithstanding a shorter notice period, the meeting shall be validly called, provided the auditors of the company agree.

## **(c) Ensuring that statutory forms are completed and filed on time in the CRO**

Changes in the situation of the company's registered office or of changes amongst the company's officers or in their particulars ought to be notified to the CRO on the relevant statutory forms, which must be properly completed and signed by a current officer of the company per CRO records.

A change of registered office is notified to the CRO on **Form B2**. A change of director or secretary or of details of their particulars such as a change of name or address must be notified on Form B10. These details are required by statute to be notified to the CRO within 14 days of the change occurring. Forms B2 and B10 may be filed electronically free of charge at [www.core.ie](http://www.core.ie). (For further information see Chapter 4.)

## **(d) Delivering to the CRO copies of resolutions passed by the company**

Special resolutions and certain other resolutions must, within 15 days of their passing by the company, be delivered to the CRO (see **4.1.5** for further information on resolutions). Failure to file a resolution does not invalidate the resolution, but a fine may be imposed on the company and any officers in default.

The resolutions that must be filed in the CRO, in addition to special resolutions, are:

- unanimous resolutions which had they not been unanimous would have had to be passed by a special resolution
- resolutions agreed by all the members but which if not agreed unanimously were required to be passed by some particular majority or manner
- all resolutions which bind all the members of a particular class of shareholders
- resolutions increasing the share capital of the company
- resolutions that a company be wound up voluntarily

## **(e) Supplying a copy of the company's accounts to every member of the company, every debenture holder and every person who is entitled to receive notice of general meetings**

The accounts are required to be sent at least 21 clear days before a meeting of the company at which they are to be laid.<sup>16</sup>

## **(f) Keeping or arranging for the keeping of minutes of directors' meeting and general meetings**

There is a statutory obligation on a company as soon as may be possible to enter the minutes of all proceedings of general meetings in books kept for that purpose.<sup>17</sup>

## **(g) Ensuring that those entitled to do so may inspect company records**

Those who are entitled to inspect the records are the members of the company, the officers of the company and the general public.

<sup>15</sup> Section 133 Companies Act 1963

<sup>16</sup> Section 159(1) Companies Act 1963

<sup>17</sup> Section 146(1) Companies Act 1963

### **(h) Custody and use of the company seal**

Every company is required to have a seal, with its name engraved in legible characters. The secretary is frequently given responsibility for the safekeeping of the company's seal. The articles of the company generally make provision for the affixing and attestation of the company seal. Many companies adopt the provisions of model Article 115 of Table A of the Companies Act 1963 which provides that:

*“every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for that purpose.”*

### **(i) Ensuring that company complies with its obligation to publish its name**

A company is required to paint or affix its name in a conspicuous place, in legible letters, on the outside of every office or place in which its business is carried on.<sup>18</sup> A company is further required to have its name mentioned in legible characters in all business letters of the company and in all cheques, invoices and receipts of the company. A fine may be imposed on the company and on any officer in default for breach of the foregoing. If a company officer issues or authorises the issue of any business letter of the company or signs a cheque or order for goods, and the name of the company is not mentioned in legible characters, that officer is liable to be fined and will also be personally liable unless the amount due on foot of the cheque or order for goods is paid by the company.

For further information on a company's full disclosure requirements, see Information Leaflet No. 7, “Disclosure and Publication Requirements in Relation to Companies and Business Names”.

### **(j) Ensuring that particulars relating to directors are shown on all business letters of the company**

A company is required to state in all business letters on or in which the company's name appears and which are sent by the company to any person, in legible characters in relation to every director, the following particulars:

- (i) present forename, or initials, and present surname;
- (ii) any former forenames and surnames; and
- (iii) nationality, if not Irish.<sup>19</sup>

For the purposes of this requirement, “director” includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act. A fine may be imposed on the company and on any officer who does not ensure that those particulars are specified on the company's stationery.

For further information, see Information Leaflet No. 7, “Disclosure and Publication Requirements in Relation to Companies and Business Names”.

## **3.2 What rights does a company secretary have?**

No specific rights are accorded to a secretary under the Companies Acts. Any rights which a secretary may have are dependent on his contract of employment with the company (if any) or under general employment law.

<sup>18</sup> Section 114 Companies Act 1963

<sup>19</sup> Section 196 Companies Act 1963

## 4. FILING DOCUMENTS AT THE CRO

A full listing of CRO forms is set out in Appendix 2 and can be downloaded from [www.cro.ie](http://www.cro.ie).

### 4.1 Rejection by CRO of documents delivered for registration

The CRO will commence operating section 249A Companies Act 1990 (inserted by section 107 Company Law Enforcement Act 2001) in due course. When this procedure is operational, we may reject a document that does not comply with the Companies Act 1990 (Form and Content of Documents delivered to the Registrar) Regulations 2002 (see Appendix 4) or with any requirement of the Companies Acts or any requirement imposed by or under any other legislation relating to the completion of a document, by serving a notice on the presenter detailing the reason for rejection. Unless the presenter delivers to us, within 14 days, a replacement document that complies with the notice, the original document will be deemed not to have been delivered to the CRO.

In preparation for this process, we are organising a comprehensive list of reasons why documents are sent back by the CRO. We have incorporated the current version of this listing in Information Leaflet No. 21, "Grounds for Returning Documents to Presenters".

The most commonly filed forms and documents, typically one of the duties of the company secretary, are as follows:

#### 4.1.1 Form B1 (annual return)

A company, whether trading or not, is obliged to deliver an annual return at least once in every calendar year to the CRO.<sup>20</sup> An annual return includes details of the company's directors and secretary, its registered office, and details of its shareholders and share capital. It must be signed by a director and by the company secretary. If the secretary is also a director, he/she may not sign in both capacities.

An online version of Form B1 is available at [www.cro.ie](http://www.cro.ie).

With one exception, the annual return of a company is required to be made up to a date every year which is no later than the company's Annual Return Date (ARD).<sup>21</sup> The first annual return of a new company however is required to be made up to the company's first ARD – it may not be made up to an earlier date.

#### ARD

The ARD is a specific date in every year allocated by statute to every company that is obliged to file an annual return. Every company already on the register on 1 March 2002 was assigned an ARD by law.<sup>22</sup> New companies incorporated on or after 1 March 2002 have an ARD of six months from their date of incorporation.<sup>23</sup> A company's ARD is 12 months from its previous year's ARD, unless the company has altered that ARD. The requirement to attach accounts to an annual return,<sup>24</sup> which accounts predate the date to which the return has been made up by no more than nine months ("the nine month rule"), may result in a company electing to alter its ARD. During 2002, this nine month rule led many companies to alter their statutorily-designated ARD. Alteration is effected by bringing the ARD forward to an earlier date or by extending it to a later date.<sup>25</sup>

A company's ARD may be checked free of charge on [www.cro.ie/search](http://www.cro.ie/search)

<sup>20</sup> Section 125 Companies Act 1963, inserted by section 59 Company Law Enforcement Act 2001

<sup>21</sup> Section 127 Companies Act 1963, inserted by section 60 Company Law Enforcement Act 2001.

<sup>22</sup> Section 127(5) Companies Act 1963, inserted by section 60 Company Law Enforcement Act 2001. For further see Information Leaflet No. 22, "Filing an Annual Return in the CRO".

<sup>23</sup> Section 127(6). Note, however, that no accounts are required to be attached to such company's first annual return post-incorporation.

<sup>24</sup> See below, "Requirements for accounts".

<sup>25</sup> See below "How to alter the ARD".

## Annual return filing deadline and late filing penalty

The annual return must be filed with the CRO within 28 days of the date to which it has been made up. Where accounts are required to be attached to the annual return<sup>26</sup> the filing deadline is either:

- the company's ARD plus 28 days, or
- the company's financial year-end plus nine months and 28 days, whichever is the **earlier**.

A late filing penalty of €100 becomes due in respect of an annual return on the day after the expiry of the filing deadline i.e. 28 days after the effective date of the return, with an additional daily default penalty of €3 accruing thereafter, up to a maximum of €1,200 per return. The penalty is in addition to the standard filing fee of €40 (paper)/€20 (electronic) per annual return. Revenue have confirmed that late filing penalties are not tax deductible.

Application may be made to court by a company on notice to the CRO for an order extending the time for delivery of an annual return.<sup>27</sup> This allows extra time to file a particular return, but will not alter the company's ARD for future years.

In addition, the Registrar of Companies also has power to levy an on-the-spot fine where an annual return remains unfiled. A company with a record of persistent late filing is liable to be targeted in this respect. The Registrar may bring the matter before the District Court on a prosecution if that fine remains unpaid.<sup>28</sup>

If the annual return is filed late or not at all, the company and its directors and secretary are liable to prosecution by the Registrar of Companies. The maximum fine that may be imposed on the company and/or each of its directors for breach of the obligation to file an annual return is €1,904.61.

Enforcement measures employed by CRO have regard to a company's annual return filing compliance history in recent years. Filing an annual return late affects a company's compliance history and could result in it being selected by this Office for enforcement measures in future years.

### How to alter the ARD

#### ***Bringing the ARD forward to an earlier date***

*(Note: This does not apply to new companies incorporated filing their **first** annual return)*

To alter its ARD to an earlier date, a company may file an annual return with a made-up-to date earlier than the company's existing ARD.

A company that has prepared an annual return in advance of its current ARD is able to file a return made up to a date prior to its ARD. However, if it wishes to retain the anniversary of its existing ARD for next year, it must notify the CRO of this on Form B1. Where the company elects to retain the anniversary of its existing ARD for the following year, the "Yes" box in the relevant section in Form B1 must be ticked. Where it elects that its ARD in the following year will be the anniversary of the date to which its current return has been made up, the "No" box ought to be ticked. If neither box is ticked and the company has filed a return which is made up to a date earlier than its current ARD, the form will be returned by CRO to the presenter for correction.

In all cases, an annual return delivered to the CRO has to be filed within 28 days of the "return made-up-to" date. Therefore, a company that wishes to file early but elects to retain the anniversary of its existing ARD or a company filing early in order to create an earlier ARD for future filing, must file Form B1 within 28 days of the "Return made up to date" indicated on the form.

#### ***Extending the ARD to a later date***

The ARD is set to a later date by filing **Form B73**. Form B73 may be filed by a company not more than once in every five years.

<sup>26</sup> See below "Requirements for accounts".

<sup>27</sup> Section 60(3) Company Law Enforcement Act 2001

<sup>28</sup> Section 66 Company Law Enforcement Act 2001

If your company wishes to extend its current ARD, it may do so by:

- delivering an annual return to the **CRO not later than 28 days after its current ARD**, to which no accounts need be annexed; and
- nominating on Form B73, the new ARD, which date may be not later than six months after its existing ARD.

**Important Note – It is a statutory requirement that Form B73 be delivered to the CRO within 28 days from the company’s existing ARD. As a matter of law, a Form B73 is ineffective and cannot be accepted by the CRO if it is filed more than 28 days after the company’s existing ARD.**

New companies are due to file accounts with their second annual return, which return is required to be made up to a date not later than 18 months post incorporation, unless the company alters its ARD. Such companies may extend their ARD using Form B73 procedure outlined above. However, this does not change the requirements to hold an AGM within 18 months of incorporation and the requirement to present accounts to its AGM within 9 months of the balance sheet date. *Form B73 ought not to be filed with the company’s first annual return*, as the effect of this is to shorten the time allowed to the company before it has to file accounts with its annual return.

For further detailed information, see Information Leaflet No. 22, “Filing an Annual Return in the CRO”.

### **Requirements for accounts**

Company accounts are required to be annexed to a company’s annual return.<sup>29</sup> Plcs, private companies and certain unlimited companies are required to prepare accounts in accordance with the 1986 Act. Other public companies (i.e. companies limited by guarantee not having a share capital) are also required to deliver accounts to the CRO with their annual return.<sup>30</sup>

Company accounts must be audited, save where the company qualifies for the exemption from having an auditor and such exemption is claimed by the company in accordance with Part III Companies (Amendment)(No.2) Act 1999 (as amended by section 53 Companies (Auditing and Accounting) Act 2003). For further information see Information Leaflet No. 10, “Audit Exemption For Certain Small Private Companies Preparing Companies Acts Individual Accounts”.

The accounts annexed to the annual return are required:

- (a) in the case of the first annual return to which accounts are required to be annexed, to cover the period since the date of incorporation;
- (b) in any other case, to cover the period since the end of the period covered in the last set of accounts filed with the CRO.

The accounts are further required to be made up to a date which is not earlier by more than nine months that the date to which the annual return is made up (the “nine month rule”).<sup>31</sup>

Accounts which do not comply with the foregoing requirements are liable to be rejected by the CRO.

Small and medium-sized companies, as defined by the Companies (Amendment) Act 1986, are entitled to claim certain exemptions in relation to the accounts filing requirements laid down in the Companies (Amendment) Act 1986.<sup>32</sup>

Annual accounts and consolidated accounts of banks and other financial institutions must be prepared in accordance with the European Communities (Credit Institutions: Accounts) Regulations 1992.

Annual accounts and consolidated accounts of insurance undertakings must be prepared in accordance with the European Communities (Insurance Undertakings Accounts) Regulations 1996.

<sup>29</sup> Section 7 Companies (Amendment) Act 1986/Section 128 Companies Act 1963

<sup>30</sup> Section 128 Companies Act 1963

<sup>31</sup> Section 7(1A) Companies (Amendment) Act 1986, inserted by section 64 Company Law Enforcement Act 2001

<sup>32</sup> Section 10-12 Companies (Amendment) Act 1986

Section 17 Exemption<sup>33</sup> exempts a private company, which is a subsidiary of a parent company established under the law of an EU Member State, from the requirement to annex its own balance sheet, profit and loss account and directors' and auditor's reports, to its annual return. Instead, section 17 permits the filing of the group accounts of the parent with an annual return, provided that certain conditions are satisfied. These conditions are that the following documents are also annexed to the subsidiary company's annual return:

- notice stating that the company has availed of the exemption under section 17<sup>34</sup>
- copy of the guarantee by the parent undertaking of liabilities of the subsidiary<sup>35</sup>
- notification by the company to the shareholders of the guarantee<sup>36</sup>
- declaration by the subsidiary that all the shareholders have declared their consent to the exemption, this declaration to be signed by the secretary or a director<sup>37</sup>
- consolidated accounts of the parent undertaking (the exemption of the subsidiary should be disclosed in a note to the accounts)<sup>38</sup>

Group accounts must be prepared in accordance with the European Communities (Companies: Group Accounts) Regulations 1992.

With effect from 17 May 2004, certain company types, previously exempted from filing accounts with their annual return, are required to file an auditor's report with their annual return.<sup>39</sup> However, with effect from 1 December 2005, the auditors of relevant companies are required to prepare a more extensive report to the directors and such companies are required to file this more extensive report with any annual returns delivered to the CRO on or after 1 December 2005.<sup>40</sup> For more information, go to [www.cro.ie](http://www.cro.ie).

These company types are:

- (a) private unlimited companies
- (b) private not-for-profit company
- (c) company with charitable objects not having a share capital and which is under the control of a religion
- (d) charitable company exempted by order of the Commissioners of Charitable Donations and Bequests from filing accounts

### **List of common errors experienced in filing Form B1**

Below is a list of the most common errors that have been found in B1s filed:

- Form is not signed by director or secretary
- Registered office address differs from that on CRO database
- Director/secretary details differ from those on CRO database
- Company has changed from single-member to multi-member or vice-versa
- Share capital details differ from those on CRO database
- No shareholders are listed
- Previous annual returns are outstanding
- None of the directors are European Economic Area (EEA) - resident

<sup>33</sup> Section 17 Companies (Amendment) Act 1986 as amended by the European Communities (Companies Group Accounts) Regulations 1992 and section 65 Company Law Enforcement Act 2001.

<sup>34</sup> Section 17(1)(d)

<sup>35</sup> Section 17(1)(d)

<sup>36</sup> Section 17(1)(b)

<sup>37</sup> Section 17(1)(a)

<sup>38</sup> Section 17(1)(f)

<sup>39</sup> Section 47 Companies (Auditing and Accounting) Act 2003

<sup>40</sup> Section 128(6B)(b) Companies Act 1963, as amended by section 61 Investment Funds, Companies and Miscellaneous Provisions Act 2005

#### 4.1.2 Form B2 (change of registered office)

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

It is vital that a company keeps the CRO informed of the location of its registered office. All formal communications are sent to that address. It should be noted that if a company has changed its registered office, but has not notified the CRO of the change, any document left or sent by post to the address currently recorded by the CRO as the company's registered office is deemed by law to have been left or sent by post to the registered office of the company notwithstanding that the situation of its registered office may have changed.

A company notifies its change of registered office by sending a completed Form B2 to the CRO. The change becomes legally effective only when the CRO has registered the form. Form B2 may be filed free of charge by completing the web version of the form on [www.core.ie](http://www.core.ie). It is an offence not to file a Form B2 where one is required.<sup>41</sup>

#### 4.1.3 Form B10 (change of directors and secretary or in their details)

Form B10 is filed by a company in order to notify the appointment of an officer post incorporation, the cessation of an officer's appointment (resignation, removal, death, etc.) and to notify the CRO of a change in particulars in relation to an officer e.g. a change of name or a new residential address. Where the company's articles permit the appointment of an alternate or substitute director, the appointment of a person who will act as an alternate director is required to be notified to this Office on Form B10. Whenever such person ceases to act as an alternate, whether by reason of the full time director's termination as director or otherwise, the termination of the alternate director's appointment is required to be specifically notified to CRO.

Form B10 is required to be sent to the CRO within 14 days of the change occurring. The form may be filed free of charge by completing the web version of the form on [www.core.ie](http://www.core.ie). Failure to file Form B10 constitutes an offence.<sup>42</sup>

Form B10 has to be signed by a current officer of the company; it cannot be signed by an officer who has resigned.

A company is required to have a minimum of two directors.<sup>43</sup> Accordingly, Form B10 will be rejected and returned by the CRO to the presenter if no replacement director is notified on it, or where the notification of the termination of a directorship would result in the company having less than the statutory minimum of two directors. Similarly, where Form B10 notifies the CRO of the cessation of appointment of a secretary, a replacement secretary is required to be notified on the form, having regard to the statutory requirement that every company must have a secretary.

Where the notification of the termination of a directorship would result in a company not having an European Economic Area (EEA) resident director,<sup>44</sup> Form B10, notifying the CRO of the termination of that directorship, is required to be accompanied by a Bond<sup>45</sup> unless a section 44 certificate is currently in force in relation to the company. (This is a certificate that a company has a real and continuous link with one or more economic activities that are being carried on in the State; this is applied for on **Form B67**). For further information in relation to the requirement that at least one of the directors of a company be EEA-resident, see Information Leaflet No. 17, "Requirement To Have An EEA-Resident Director".

**Form B74** is required to be completed by any person being appointed as director of an Irish-registered company, where that person is currently disqualified in a foreign jurisdiction from acting as a director or secretary of a body corporate or an undertaking.<sup>46</sup>

<sup>41</sup> Section 113(5) Companies Act 1963

<sup>42</sup> Section 195 Companies Act 1963

<sup>43</sup> Section 174 Companies Act 1963

<sup>44</sup> Section 43(1) Companies (Amendment)(No.2) Act 1999

<sup>45</sup> Section 43(3) Companies (Amendment)(No.2) Act 1999

<sup>46</sup> Note that Form B74 must also accompany Form A1 (incorporation form) where any of the first directors of the company are currently disqualified abroad.

The B74 sets out the jurisdiction in which the individual is so disqualified, the date on which he/she became so disqualified and the period for which he/she is so disqualified.

If a person whose appointment as director is notified to the CRO on Form B10 is currently disqualified abroad, that person is required to ensure that the B10 is accompanied by a properly completed B74 signed by him/her on its delivery to the CRO.

On receipt of a Form B74, CRO notifies it to the Office of the Director of Corporate Enforcement (ODCE). The ODCE may apply to the High Court, pursuant to section 160(2)(i) of the Companies Act 1990, to have a person who is disqualified abroad disqualified in this jurisdiction also. The High Court may make such order if it is satisfied that, if the conduct of the person which gave rise to the order being made against him/her occurred in Ireland, it would have been proper to make a section 160 disqualification order against him/her.

If Form B74 is not delivered to CRO with the B10 or if the B74 signed by the disqualified individual is false or misleading in a material respect, then upon the delivery to the CRO of B10 the individual concerned is **deemed to be subject to a disqualification order** for the remainder of period of the foreign disqualification.<sup>47</sup>

Non-delivery of the B74 with a B10 where necessary accordingly results in automatic disqualification of the individual concerned from acting as auditor, director or other officer, receiver, liquidator or examiner and precludes him from in any way, whether directly or indirectly, being concerned or taking part in the promotion, formation or management of any company or any society registered under the Industrial and Provident Societies Acts 1893-1978.

**Important Note – It is not possible to reverse this deemed disqualification by the late delivery of a B74 to CRO, or where the B74 contained false or misleading information, by filing an amended B74 with the CRO.**

The only possible relief is for the affected person to apply to the High Court, pursuant to section 160(8) Companies Act 1990, for relief, either in whole or in part, from disqualification. The court may, if it deems it just and equitable to do so, grant such relief on whatever terms and conditions it sees fit.

#### 4.1.4 Form B5 (allotments of shares)

##### (a) Allotment of shares for cash

Every allotment of shares by a company limited by shares, or by a company limited by guarantee and having a share capital, must be notified to the CRO on Form B5 within one month of the date of allotment.<sup>48</sup>

Since the abolition of companies capital duty with effect from 7 December 2005, Form B5 with an effective date on or after that date should be filed directly with the CRO. Only a Form B5 that has an effective date prior to 7 December 2005 should now be filed to Revenue's Stamping Office together with the registration fee (€15 plus appropriate capital duty). Capital duty is a matter for Revenue. After detaching capital duties details, Revenue will forward Form B5 to the CRO.

##### (b) Allotment of shares for a consideration other than cash (Form B5 and Contract or Form 52)

Notwithstanding the above, Form 52 (B6), or contract relating to non-cash allotments of shares, must still be filed in duplicate with Revenue which will stamp the documents (stamp consists of a metallic strip marked "exempt") and return the duplicate to the presenters. One original copy should then be filed with the CRO along with the filing fee (€15). The form should be sent first to Stamp Adjudication Branch, Revenue Commissioners, Dublin Castle, Dublin 2.

The following documents are required:

- Form B5 must be filed within one month of the date of the allotment together with either a contract in writing, constituting the title of allottees to the allotment, together with any contract of sale, duly stamped adjudicated as to stamp duty;
- Form 52(B6) must be duly stamped and adjudicated as to stamp duty by Revenue.

<sup>47</sup> Section 160(1A) Companies Act 1990, inserted by section 42 Company Law Enforcement Act 2001

<sup>48</sup> Section 58(1)(a) Companies Act 1963, as amended

Minimum subscriptions: 5% of the nominal amount of the share is the minimum subscription payable on shares in a private company and 25% of the nominal amount in a plc.

#### 4.1.5 Form G1/G2 (resolutions)

**(a) Special/Ordinary resolutions** (other than resolutions for change of name) which are presented for filing must not be handwritten but must be either printed or typed and dated. The resolution must be signed by a current officer of the company per CRO records. It should be noted that special rules apply where resolutions are passed granting assistance for the purchase of own shares.<sup>49</sup> These resolutions can be filed free of charge at [www.core.ie](http://www.core.ie).

**(b) Special resolutions for change of name (Form G1Q)** must also be printed or typed and dated and the current name of the company must appear as it is written on the certificate of incorporation. No other resolutions should appear on this form. A copy of the revised memorandum and articles of association with the new name must be submitted with the resolution and form. These resolutions can be filed for €50 (as opposed to €100 for paper) at [www.core.ie](http://www.core.ie).

Resolutions amending the memorandum and/or articles of association of a limited company must be accompanied by an amended text incorporating all changes that may have occurred since the original memorandum and articles of association were filed up to the current date. A **Form B4** must also be submitted where a resolution increases share capital. A **Form 28(B7)** must also be submitted where share capital is cancelled (other than by court order), consolidated, sub-divided or redeemed.

#### 4.1.6 Form H1/H1R (restoration of a company)

A company may be struck off the register if it fails to file its annual returns or if it fails to provide Revenue with certain basic information when requested to do so.

If a company has been struck off the register, the company may apply to the CRO to have itself restored to the register within 12 months of its date of dissolution on a Form H1 where annual returns are involved and on Form H1R where Revenue are involved provided that all outstanding annual returns are also delivered to the CRO.

In relation to Form H1R, written confirmation from Revenue that all outstanding statements required by them have been delivered to them must also be delivered with the form. The Registrar has no power to restore a company to the register if the 12 month period has expired prior to delivery of the documents to the CRO, and, consequently, has no discretion to extend the time for delivery of Form H1/H1R. It is vital, therefore, that a company wishing to apply for a restoration via this route, deliver to the CRO, not later than the day before the first anniversary of the date of the dissolution of the company, Form H1/H1R and all outstanding returns and/or Revenue statements, as applicable.

After 12 months, if an officer or member of the company wishes to have the company restored to the register, he/she will have to apply to the High Court to have the company restored. Such applications are required to be made on notice to Revenue and the Minister for Finance, as well as to the Registrar of Companies.<sup>50</sup> In practice, a letter of no objection to the company's restoration is required from each of these parties before the High Court Judge will grant the restoration order.

For further information, see Information Leaflet No. 11, "Restoration of a Company to the Register".

#### 4.1.7 Form C1/Form 8E(F8) (mortgages/charges)

Details of certain mortgages/charges created by a company are required to be delivered to the CRO on Form C1 (Form 8E(F8) for an external company) within 21 days of the date of creation of the charge.<sup>51</sup> Failure to deliver the required particulars of a registerable charge within the time limit has the effect of making the charge void against the liquidator and any creditor of the company. In the event that the 21-day period is not complied with, application to the High Court may be made for an extension of time to register the charge.<sup>52</sup>

<sup>49</sup> Section 60 Companies Act 1963

<sup>50</sup> Section 12B(3) Companies (Amendment) Act 1982, as amended

<sup>51</sup> Section 99 Companies Act 1963

<sup>52</sup> Section 106 Companies Act 1963

A separate Form C1 must be completed in respect of each charge created by a company. Where a company acquires property which is subject to a charge, particulars of the charge must be delivered to the CRO on Form 47B(C3),(9E(F9) for an external company) within 21 days.

Because of the consequences of non-registration, pursuant to section 99 Companies Act 1963, it is advisable if a presenter is in any doubt that urgent professional advice be obtained with regard to completion of these forms and the certification and verification of the particulars included in same.

#### **4.1.8 Form C6/C7 (declaration of satisfaction/partial satisfaction of a charge)**

A mortgage/charge may be satisfied either fully (Form C6) or partially (Form C7)<sup>53</sup>. A full description of the charge being satisfied must be given together with the date of satisfaction. The declaration must be completed by a director and the secretary (with their residential addresses) and sworn before a commissioner for oaths or a practising solicitor. The instrument creating the charge is not required to be filed with the form.

Only individual charges may be satisfied/detailed per Form C6/C7. In a partial satisfaction of a charge, the specific property being released from the charge must be clearly stated.

<sup>53</sup> Section 105 Companies Act 1963

## APPENDIX 1 CRO FEES

### 1. Registration of documents

Document	Paper	Electronic
	€	€
New company (Form A1)	100	50 (CRODisk)
Application by plc to commence business & declaration of particulars (Form 70)	300	N/A
Annual return (Form B1)	40	20
<b>Late annual return</b>		
(a) Initial late filing penalty plus registration fee	140	120
(b) Daily default penalty	3	3
Maximum late filing penalty per return	1,200	1,200
Change in company registered office address (Form B2)	15	Nil
Change in register addresses (Form B3)	15	Nil
Increase in authorised capital (Form B4 with Form G1 and memo & arts)	45	Nil
Change in company directors/secretary details (Form B10)	15	Nil
Application for certificate that company has a real and continuous link with one or more economic activities that are being carried on in the State (Form B67)	40	N/A
Application for certificate that a company should not be reckoned for the purpose of determining the number of companies of which a person is a director (B68)	40	N/A
Notice that a person has ceased to be an officer where the company has failed to file Form B10 (Form B69)	40	Nil
Nomination of a new annual return date (Form B73)	15	N/A
Particulars of a charge for an Irish company (Forms C1/47A(C4)/47B(C3)/48(C5)/Judgement mortgage)	40	N/A
Notice that charge has been registered in a country where property is situated (Form C2)	15	N/A
Full/partial satisfaction of a charge (Forms C6/C7)	15	N/A
CBM1 Form - Cross Border Merger	100	N/A
Re-registration of a company (D-series)	60	N/A
Change of company name (Form G1Q with memo & arts)	100	50
Special resolution (Form G1) and any document lodged in connection with it, other than resolution in connection with change of company name	15 per document	Nil
Ordinary resolution (Form G2) and any document lodged in connection with it	15 per document	Nil
Restoration of a company (Forms H1/HIR)	300	N/A
Multi-member to single-member company (M1)	15	Nil
Single-member to multi-member company (M2)	15	Nil
Societas Europaea Forms - Forms SE1, SE2, SE3, SE4, SE6, SE7	100	N/A
SE Forms - Forms SE8, SE9, SE10, SE11, SE12, SE13, SE14, SE15	15	N/A
SE Forms - SE5 - Formation of a subsidiary SE by an SE	60	N/A
Delivery to registrar of draft terms of conversion of SE to plc or re-registration of SE as a plc	100	N/A
Delivery of copy of draft terms of merger in respect of formation of SE by means of merger where the SE will be formed outside the State	100	N/A
Notification by auditor of his/her resignation pursuant to S.185(3)(a) 1990 Act	15	N/A
Notification by auditor of his/her termination of appointment by a company, which intends to avail of the audit exemption. S. 34(3)(a) Companies (Amendment) (No.2) Act 1999	Nil	N/A
All Other Post-Incorporation Documents, Liquidation documents, Receivership documents, examinership documents and court orders	15	N/A
<b>External Company Forms:</b>	<b>Paper</b>	<b>Electronic</b>
	€	€
External company registration (Forms F1/F12/F13)	60	N/A
Change in address of persons resident in the State authorised to accept service of proceedings on behalf of the company or address of persons resident in the State responsible for ensuring compliance or address of principal place of business or branch in the State (F4)	15	Nil (change of address of branch in State only)
Particulars of a charge - 8E(F8), 9E(F9)	40	N/A
Other External company documents (Forms F2/F7/F3/F14)	15	N/A
Notice of cessation of a Place of Business (no form)	15	N/A

<b>Business Name Forms:</b>	<b>Paper</b>	<b>Electronic</b>
	€	€
New business name (Forms RBN1/RBN1A/RBN1B)	40	20
Change of business name particulars (Forms RBN2/RBN2A/RBN2B)	15	Nil (change of address only)
Cessation of business name (Form RBN3)	Nil	N/A
<b>Limited Partnership Forms:</b>	<b>Paper</b>	<b>Electronic</b>
	€	€
LP1 - Application for registration of a limited partnership	2.50	N/A
LP2 - Notice of change in a limited partnership	0.30	N/A
LP3 - Statement of the capital contributed by limited partners	Nil	N/A
LP4 - Statement of increase of capital contributed in cash, or otherwise, by limited partners	Nil	N/A
P1 - Return of accounting documents of partnerships and limited partnerships	15	N/A

### Online Filing

Submitting your application online is cheap, secure and quick. It is more reliable and more efficient than using paper, and can cut down on administration. So it can help you run your business more efficiently and will save you money. Certain forms can be filed online using secretarial packages or by using [www.core.ie](http://www.core.ie).

For more information, visit [www.cro.ie](http://www.cro.ie) or contact Electronic Filing Section by email at [electronic\\_filing@entemp.ie](mailto:electronic_filing@entemp.ie) or by telephone at 01 804 5355/5374.

## 2. Services, documents, etc

	<b>Paper</b>	<b>Electronic</b>
	€	€
Image of a document	2.50	2.50
Printout of a company/business name	3.50	3.50
Search on a company/business name file	3.50	3.50
Certified copy of a document/extract from any register	12.00	N/A
Duplicate certificate of a company/business name	12.00	Nil (for public sector use only)
Letters of status	4.00	N/A

Documents ordered online at [www.cro.ie/search](http://www.cro.ie/search) can be paid for using a credit/debit card.

Documents ordered by post must include an additional €1 towards postage and handling costs.

## 3. Methods of payment

Payment may be made by way of:

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

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

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

## APPENDIX 2 CRO FORMS

Forms may be downloaded from [www.cro.ie](http://www.cro.ie).

Form No	Subject Matter
A1	Company incorporation
A2/44	Statutory declaration by company which has filed prospectus
A3/44A	Statutory declaration by company which has filed statement in lieu of prospectus
A4/70	Application by a public limited company to commence business and declaration of particulars
B1	Annual return
B1u	Group accounts
B2	Change of registered office
B3	Notice of places where register of members, register of debenture holders, register of directors' and secretary's interests in shares and debentures, and directors' service contracts/memoranda are kept
B4	Notice of increase in authorised capital
B5	Return of allotments
B6/52	Particulars of contract relating to shares
B7/28	Notice of consolidation and division, or conversion into stock or shares, or of the re-conversion into shares or stock, or the subdivision or redemption or cancellation of shares
B8/58	Notice re. commission or discount payable in respect of shares
B9/11	Notice of increase in members
B10	Change of director and/or secretary, or in their particulars
B11/80	Statement of particulars of rights attached to shares allotted and not otherwise registerable
B12/81	Statement of particulars of variation of rights attached to shares and not otherwise registerable
B13/82	Notice of assignment of name or new name of any class of shares registerable under s. 39(4) Co's. (Amendment) Act 1983
B22/81	Statement of particulars of variation of rights attached to shares and not otherwise registerable
B28/19	Notice to shareholders pursuant to section 204(4) Companies Act 1963
B29/18	Notice to dissenting shareholders pursuant to s204(1) Companies Act 1963
B32/55	Statement in lieu of prospectus (private company being converted into public company)
B34/67A	Revocation of notice to carry on business as an investment company
B67	Certificate pursuant to section 44(2) Companies (Amendment) Act 1999
B68	Notice re. exclusion of directorships from limit of 25
B69	Notification by individual that he/she has ceased to be a director or secretary
B70	Notice that a person holding the office of director/secretary has died (Form B10 still required from the company)
B73	Nomination of a new annual return date
B74	Statement of director's disqualifications
B77	Notice of authorisation/revocation of authorisation of an electronic filing agent
C1	Mortgage or charge created by Irish company
C2/47C	Notice that charge has been registered in country where property is situated
C3/47B	Judgment mortgages etc. created after 1/4/64
C4/47A	Series of debentures
C5/48	Further issue of debentures
C6	Statutory declaration of satisfaction of a charge
C7	Statutory declaration of partial satisfaction of a charge
D1/71 & 72	Application by a private or unlimited company for re-registration as a public limited company. Declaration of compliance by a private or unlimited company with the requirements for re-registration as plc.
CBM1	Cross Border Merger
D2/73 & 74	Application by an old public limited company for re-registration as a public limited company. Declaration by director or secretary on application by an old public limited company for re-registration as a plc.
D3/75	Declaration by an old public limited company that it does not meet the requirements for a plc.
D4/76	Application by a public limited company for re-registration as a private company
D5/77	Application by a plc. for re-registration as another form of company following a court order
D6	Application by a limited company to be re-registered as unlimited
D10/83	Application by a public limited company for re-registration as another form of company following cancellation of shares and diminution of share capital
D12/86	Application by an unlimited company to be re-registered as limited
D13/65	Notice of application made to the court for the cancellation of a special resolution regarding re-registration
D17/78 & 79	Application by an existing joint stock company for registration as a plc limited by shares Declaration of compliance by an existing joint stock company in connection with registration as a plc
E1/12	Declaration of solvency
E2	Notice of appointment of liquidator
E3	Liquidator's account of his/her acts & dealings & of conduct of the winding up pursuant to s.262 or 272 1963 Act
E4/22 & 23	Liquidator's affidavit verifying account. Liquidator's statement of account pursuant to s.306 1963 Act. No fee on Form 23.
E5/14	Liquidator's final statement of account (members or creditors' winding up) pursuant to s.263 or 273 1963 Act
E6/13	Return of final winding up meeting (members' voluntary winding up) pursuant to s.263 1963 Act
E7/13A	Return of final winding up meeting of members & creditors (creditors' voluntary winding up) s.273 1963 Act
E8	Notice of appointment of receiver
E9	Receiver's abstract

E10/17	Statement of affairs
E11	Notice of cessation by receiver
E24	Notice of petition for appointment of examiner
F1	Registration of a place of business by an external company
F2	Alterations in the memorandum/articles of external company
F3	Change in directors/secretary/persons who represent an external company
F4	Changes in authorised persons/persons responsible for compliance with regulations/address of external company
F7	Return of accounting documents of an external company
F8/8E	Particulars of a charge on property in the State created by a company incorporated outside the State
F9/9E	Particulars of a charge subject to which property in the State has been acquired by a foreign company
F12	Registration of a company which is a branch of a EU company
F13	Registration of a company which is a branch of a non-EU country company
F14	Notification of winding up/closure of branch of an external company
F15	Notice of judgement opening insolvency proceedings in another Member State/decision appointing liquidator
G1	Special resolution
G1Q	Change of name special resolution
G2	Ordinary resolution
G5	Statutory declaration of compliance
H1/H1R	Restoration of a company to the register. Can only used within 12 months from date of dissolution
H2	Notice of disclosure order
H3	Notice of removal of auditor
H4	Notification of notice that proper books of accounts are not kept
H5	Return by a company purchasing its own shares and/or shares in a holding company
H5a	Return for re-issue of former treasury shares
H8	Particulars of disqualification order
H15	Application for Voluntary strikeoff (Administrative forms - No filing fee).
IG1	Registration of EEIG whose official address is in Ireland
IG2	Registration of grouping establishment in Ireland for EEIG whose official address is outside Ireland
IG3	Notice of setting up of grouping establishment of an EEIG whose official address is in Ireland
IG4	Notice of closure of grouping establishment of an EEIG
IG5	Notice of manager's particulars and of termination of appointment
IG6	Notice of documents and particulars required to be filed
IG7	Notice of proposal to transfer official address of an EEIG
IG8	Annual return for an EEIG
J1	Application to act as filing agent
J1a	Application to act as a statutory electronic filing agent
J2	Application for secretary/director CRO ID and PIN for purposes of electronic filing of CRO forms
LP1	Application for registration of a limited partnership
LP2	Notice of change in a limited partnership
LP3	Statement of the capital contributed by limited partners
LP4	Statement of increase of capital contributed in cash, or otherwise, by limited partners
M1	Notification re. a multi-member company changing to a single-member company
M2	Notification re. a single-member company changing to a multi-member company
P1	Return of accounting documents of partnerships and limited partnerships
RBN1	Application for registration of a business name by an individual
RBN1A	Application for registration of a business name by a partnership
RBN1B	Application for registration of a business name by a body corporate
RBN2	Nature of change in particulars of a business name registered by an individual
RBN2A	Nature of change in particulars of a business name registered by a partnership
RBN2B	Nature of change in particulars of a business name registered by a body corporate
RBN3	Notice of cessation of a business name
SE1	Formation by merger of Societas Europaea
SE2	Formation of holding Societas Europaea
SE3	Formation of subsidiary Societas Europaea
SE4	Conversion of plc to Societas Europaea
SE5	Formation of subsidiary Societas Europaea by SE
SE6	Transfer of SE registered office to ROI
SE7	Transfer of SE registered office from ROI
SE8	Statement of solvency by directors of SE which is proposing to transfer from ROI
SE9	Request by SE for assignment of new ARD
SE10	Proposed transfer of registered office of SE from ROI
SE11	Draft terms of formation of holding SE involving an ROI registered company or SE
SE12	Draft terms of conversion of plc to SE
SE13	Notice of satisfaction of conditions for the formation of holding SE by an Irish company/SE
SE14	Amendments of statutes of SE
SE15	Notice of initiation of or termination of winding up liquidation, insolvency or cessation of payment procedures and decisions to continue operating of SE

## APPENDIX 3

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

Note: This list is not exhaustive. The Companies Acts impose many other obligations on companies

Statutory returns	To be delivered	Penalty for non-compliance
Form B1– Annual return [s125 1963 Act]	Within 28 days of date to which return has been made up which date may be no later than the ARD [s127 1963 Act]	€1,904.61 [s125(2) 1963 Act as inserted by s59 2001 Act and as amended by s240(7) 1990 Act]
Accounts [s7 1986 Act]	To be delivered with annual return within nine months of financial year-end	€1,904.61 [s22 1986 Act]
Accounts [s128 1963 Act]	To be delivered with annual return within nine months of financial year-end	€1,904.61 [s128(3) as amended by s240(7) 1990 Act]
Form B2 – Change in registered office [s113(3) 1963 Act]	Within 14 days of change [s113(3) 1963 Act]	€1,904.61 [s113(5) 1963 Act as amended by s240(7) 1990 Act]
Form B3 – Notice where register of members is kept [s116(7) 1963 Act] N.B. not required if kept at registered office	Within 14 days of change [s116(9) 1963 Act]	€1,904.61 [s116(9) 1963 Act as amended by s240(7) 1990 Act]
Form B3 – Notice where register of debenture holders is kept [s91(3) 1963 Act] N.B. not required if kept at registered office	Within 14 days of change [s91(3) and (5) 1963 Act]	€1,904.61 [s91(5) as amended by s240(7) 1990 Act]
Form B3 – Notice where copies of director's service contracts are kept [s50(4) 1990 Act] N.B. not required if kept at registered office	Within 14 days of change [section 50(4) 1990 Act]	€1,904.61 [s50(7) 1990 Act]
Form B4 – Notice of increase in nominal capital [s70(1) 1963 Act]	Within 15 days of increase [s70(1) 1963 Act]	€1,904.61 [s70(3) 1963 Act as amended by s240(7) 1990 Act]
Form B5 – Return of allotments [s58 1963 Act]	Within one month of the allotment [s58(1) 1963 Act]	€1,904.61 [s58(3) 1963 Act as amended by s240(7) 1990 Act]
Form B9/11 – Notice of increase in number of members [s12(3) 1963 Act]	Within 15 days after the increase [s12(3) 1963 Act]	€1,904.61 [s12(3) 1963 Act as amended by s240(7) 1990 Act]
Form B6/52 – Particulars of contract relating to shares [s58(2) 1963 Act]	To be submitted with Form B5 [s58(2) 1963 Act]	€1,904.61 [s58(3) 1963 Act as amended by s240(7) 1990 Act]
Form B7/28 – Notice of consolidation/division/cancellation/redemption, etc. of shares [s69 1963 Act]	Within one month of the event [s69(1) 1963 Act]	€1,904.61 [s69(2) 1963 Act as amended by s240(7) 1990 Act]
Form B10 – Notice of change in directors/secretary change [s195(6) 1963 Act as substituted by s51 1990 Act]	Within 14 days of the event [s195(6) 1963 Act]	€1,904.61 [s195(12) 1963 Act as substituted by s51 1990 Act]
Form E1/12 – Declaration of solvency [s256 1963 Act as substituted by s128 1990 Act]	Not later than the date of delivery of a copy of resolution to wind up company [s143 1963 act, s256 1963 Act as amended by s128 1990 Act]	Ineffective declaration. Court Order is then required to rectify situation

Form E2 – Notice of appointment of liquidator [s278(1) 1963 Act]	Within 14 days of appointment [s278(1) 1963 Act]	€1,904.61 [s278(2) 1963 Act as amended by s240(7) 1990 Act]
Form E3 – Liquidators account of dealings [s262/272 1963 Act]	Within seven days of presentation to meeting [s262(1)/272(1) 1963 Act]	€1,904.61 [s145 1990 Act]
Form E4/22/23 – Liquidators affidavit verifying s306 accounts [s306 1963 Act/131 Rules of Court]	The first 22/23 is filed for a two year period from the passing of the resolution [s306(1) 1963 Act] A form must be submitted for each subsequent period of six months	€1,904.61 [s306(2) 1963 Act as amended by s145 1990 Act]
Form E6/13 – Return of final winding up meeting [s263(3) 1963 Act] Members' winding up	Within one week after meeting [s263 1963 Act]	€1,904.61 [s263(3) 1963 Act as amended by s145 1990 Act]
Form E7/13A – Return of final winding up meeting [s273 1963 Act] Creditors' winding up	Within one week of meeting [s273(3) 1963 Act]	€1,904.61 [s273(3) 1963 Act and s145(1) 1990 Act]
Form E5/14 – Liquidators statement of accounts [s263/273 1963 Act]	Within one week of meeting [s263(3)/273(3) 1963 Act]	€1,904.61 [s263(3)/273(3) 1963 Act as amended by s145 1990 Act]
Form C1 – Mortgage or Charge created by an Irish company [s99 1963 Act]	Within 21 days after the date of creation [s99 1963 Act]	Charge becomes void, the money secured shall immediately become payable [s99 1963 Act]
Form C6 – Statutory declaration of full satisfaction of a charge [s105 1963 Act]	When charge has been satisfied [s105 1963 Act]	Property remains unchanged on register of charges
Form C7 – Statutory declaration of partial satisfaction of a charge [s105 1963 Act]	When partial satisfaction has been discharged on specific property [s105 Act 1963 Act]	Charge remains unchanged on register of charges
Form E8 – Notice of appointment of receiver [s107 1963 Act]	Within seven days of appointment [s107(1) 1963 Act]	€1,904.61 [s107(3) 1963 Act and s145 1990 Act]
Form E11 – Notice of receiver ceasing to act [s107(2) 1963 Act]	On ceasing to act [s107(2) 1963 Act]	€1,904.61 [s107(3) 1963 Act and s145 1990 Act]
Form E9 – Receiver's abstracts [s319(2) or 321(1) 1963 Act]	Within the seventh month of appointment and thereafter every six months [s321(1) 1963 Act]	€1,904.61 [s319(7)/321(2) 1963 Act and s145 1990 Act]
Form E10/17 – Statement of affairs [s319(1)(b)/320 1963 Act]	Within two months of receipt of statement [s319(1)(c) 1963 Act]	€1,904.61 [s319(7) 1963 Act and s145 1990 Act]
Form E24 – Notice of Petition of Court [s12(1) Companies (Amendment) Act 1990]	Within three days of presentation of petition [s12(1) Companies (Amendment) Act 1990]	€1,904.61 [s12(5) Companies (Amendment) Act 1990]
Form H1 – Restoration to the register of company struck off [s311A 1963 Act/s246 1990 Act]	Within 12 months of the company being struck off [s311A 1963 Act]	Company remains dissolved
Form H1R – Restoration to the register of company struck off [s12(c) Companies (Amendment) Act 1982/s46 Companies (Amendment)(No.2) Act 1999]	Within 12 months of the company being struck off [s46(12)(b)(3) Companies (Amendment)(No.2) Act 1999]	Company remains dissolved
Form H2 – Notice of disclosure order [s102 1990 Act]	Within seven days of the making of the disclosure order [s102(1) 1990 Act]	€1,904.61 [s240 1990 Act]

Form H3 – Notice of removal of auditor [s160 1963 Act/s183 1990 Act]	Within 14 days of the resolution removing the auditor [s160(5) 1963 Act as substituted by s183 1990 Act]	€1,904.61 [s160(5A)(b) 1963 Act as substituted by s183 1990 Act]
Form H4 – Notification that proper books of account not kept [s194 1990 Act]	Within seven days of the serving of the notice on the company [s194(1)(b) 1990 Act]	€1,904.61 [s194(4) and s240 1990 Act]
Form H5 – Return of company purchasing its own shares [s226 1990 Act]	Within 28 days of delivery of shares to company [s226(1) 1990 Act]	€1,904.61 [s226(4) and s240 1990 Act]
Forms G2/G1/G1Q – Resolutions [special/ordinary] [s143 1963 Act as amended]	Within 15 days of the passing of the resolution	€1,904.61 [s143(5) 1963 Act as amended by s240(7) 1990 Act]
Form F1– Application to register a place of business [s352(1) 1963 Act]	Within one month of the establishment [s352(1) 1963 Act]	€1,904.61 [s358 1963 Act as amended by s240(7) 1990 Act]
Form F2 – Alteration in charter (memo & arts etc.) [s353 1963 Act/Reg. 4(3)/7(3) EU Branch Regs. 1993]	Within 21 days [Reg. 5 Forms Order 1964] Within 14 days [Reg. 4(3)/7(3) EU Branch Regs. 1993]	€1,904.61 [s358 1963 Act//Regs 19(2) EU Branch Regs. 1993, both amended s240(7) of 1990 Act]
Form F3 – Return of changes in directors/secretary/persons authorised to represent the company [s353 1963 Act/ Reg. 4(3)/7(3) EU Branch Regs. 1993]	Within 21 days of change [Reg. 5 Forms Order 1964] Within 14 days of change [Regs. 4(3)/7(3) EU Branch Regs. 1993]	€1,904.61 [s358 1963 Act/Reg 19(2) EU Branch Regs. 1993, both amended by s240(7) 1990 Act]
Form F4 – Changes in authorised persons/persons responsible for ensuring compliance with EU Branch Regs/change in address of place of business or branch [s353 EU Branch Regs. 1993]	Within 21 days of change [Reg. 5 Forms Order 1964] Within 14 days of change [Regs. 4(3)/7(3) EU Branch Regs. 1993]	€1,904.61 [s358 1963 Act/Reg. 19(2) EU Branch Regs. 1993, both amended by s240(7) 1990 Act]
F5 – Notice of ceasing to have place of business [s357 1963 Act]	Notice to be given forthwith [s357 1963 Act]	€1,904.61 [s358 1963 Act as amended by s240(7) 1990 Act]
Form F7 – Accounting documents [s354 1963 Act/Reg. 11 EU Branch Regs. 1993]	Within 21 days [Reg. 5 1964 Forms Order/ within 11 months of end financial year Reg. 11 EU Branch Regs. 1993]	€1,904.61 [s358 1963 Act/Reg. 19(2) EU Branch Regs. 1993 as amended by s240(7) 1990 Act]
Form F12 – Application to register branch (EU country) [Reg. 4 EU Branch Regs. 1993]	Within one month of establishment of Branch [Reg. 4 EU Branch Regs. 1993]	€1,904.61 [Reg. 19(2) EU Branch Regs. 1993]
Form F13 – Application to register branch (non EU Country) [Reg. 7 EU Branch Regs. 1993]	Within one month of establishment of branch [Reg. 7 EU Branch Regs. 1993]	€1,904.61 [Reg. 19(2) EU Branch Regs. 1993]
Form F14 – Notice re. liquidation/insolvency/closure of branch [Reg. 4(3)/7(3) EU Branch Regs. 1993]	Within 14 days of occurrence [Reg. 4(3)/7(3) EU Branch Regs. 1993]	€1,904.61 [Reg. 19(2) EU Branch Regs. 1993]

Note: Section 240(7) Companies Act 1990 was inserted by section 104 Company Law Enforcement Act 2001

## APPENDIX 4

### **S.I. No. 39 of 2002 Companies Act 1990 (Form and Content of Documents Delivered to Registrar) Regulations 2002**

I, Noel Treacy, Minister of State at the Department of Enterprise, Trade and Employment, in exercise of the powers conferred on me by sections 3(3) and 248 of the Companies Act 1990 (No. 33 of 1990) as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 305 of 1997) and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) Order 1998 (S.I. No. 265 of 1998), hereby order as follows:

1. These Regulations may be cited as the Companies Act 1990 (Form and Content of Documents Delivered to Registrar) Regulations 2002.
2. These Regulations shall come into operation on 1st March 2002.
3. (1) In these Regulations –  
“Acts” means the Companies Acts 1963 to 2001;  
“delivered” means delivered to the registrar;  
“documents” has the same meaning as in section 248 of the Companies Act 1990 (No. 33 of 1990);  
“registrar” means the registrar of companies.  
(2) A word or expression used in these Regulations that is also used in the Acts shall, unless the context otherwise requires, have in these Regulations the meaning that it has in those Acts.  
(3) In these Regulations, unless the contrary intention appears –  
(a) a reference to a paragraph is a reference to the paragraph of the provision in which the reference occurs, and  
(b) a reference to a section is to a section of the Companies Act 1963 (No.33 of 1963).
4. Documents shall be easily legible and suitable for electronic scanning and electronic copying.
5. A page of a document shall be –  
(a) 297 millimetres in length and 210 millimetres in width, that is to say, A4 size, and  
(b) made of white paper with a matt finish weighing not less than 80 grams per square millimetre.
6. The print in a document shall be –  
(a) black in colour,  
(b) not less than 1.8 millimetres in height, and  
(c) suitable and adequate for electronic scanning.
7. The layout of the printed matter on a page of a document shall be such as to provide a margin of not less than one centimetre all around the printed matter, that is to say, on the top and bottom and on each side, of it.
8. A document shall not contain any colour other than the white of the paper and the black of the printed matter.
9. If an original document contains coloured print or any of its pages consist of glossy paper, a copy of the document, or a printer’s proof of the document, complying with these Regulations shall be delivered.
10. Pages of a document shall be kept together by means of a clip or staple at the top left-hand corner and shall not be stitched together or otherwise bound and shall not bear any adhesive tape.
11. A document shall not consist of or contain a carbon copy or photocopy or printed matter from a dot matrix computer printer.

12. A space in a document for the insertion of information shall not be left blank but, as appropriate, "not applicable", "nil" or "none" or another similar word shall be inserted in the space.
13. (1) An amendment inserted in the contents of a document shall be initialled and dated by at least one of the signatories to the document or, if there are no signatories, by at least one of the persons who authorised its production.
  - (2) Subject to paragraph (3), if a document delivered by a person is returned by the registrar to the person for amendment, either, as the registrar may determine, a new document shall be prepared or the contents of the document shall be amended and initialled and dated in accordance with paragraph (1), and thereafter the document shall be delivered.
  - (3) If the document referred to in paragraph (2) is a statutory declaration, the person who made the declaration shall make another statutory declaration and deliver it as soon as practicable.
14. (1) Subject to paragraphs (2) and (3), the name of a company (as stated in its memorandum of association) and the address of its registered office shall be entered on the first page of a document in a prominent position.
  - (2) The name and address referred to in paragraph (1) shall correspond with the information previously delivered to the registrar in accordance with the Acts.
  - (3) If the name of the company includes one of the words or expressions "limited", "teoranta", "public limited company" or "cuideachta phoiblí teoranta", an abbreviated form of the word or expression may be used in the entry made under paragraph (1) in a document other than a document relating to the incorporation of a company, a change of name or the re-registration of a company or the memorandum or articles of association of a company.
  - (4) The address of the registered office of a company on a document may not be given as a post office box number.
15. (1) An individual shall be referred to in a document by his or her surname and all of his or her first names.
  - (2) Where the address of an individual is required to be stated in a document, his or her residential address shall be stated, unless some other address is required by law to be stated.
  - (3) If a document is required to be signed –
    - (a) the signature shall be the original, handwritten signature of the person, and
    - (b) the date of the signature shall be stated on the document.
16. The form and content of a document delivered under a scheme of the registrar for giving priority to the examination and registration by the registrar of the document or documents of a specified class shall be in compliance with the rules and requirements of the scheme.
17. Where any matter is included in a document under a provision of the Acts, or of an instrument made under the Acts, or such a provision is otherwise relevant to the matter, the provision shall be identified in the document.
18. (1) An application to the registrar in the form prescribed for the purposes of the Acts in relation to the registration of a company –
  - (a) shall correspond and be in compliance with the articles of association where the articles of association –
    - (i) provide for a minimum number of directors, or
    - (ii) contain the names of the first-appointed directors and the first-appointed secretary, and
  - (b) subject to paragraph (2), may be signed by an individual acting as agent for all or any of the subscribers to the memorandum of association, but may not be completed on behalf of a company acting as such an agent.(2) Where a subscriber referred to in paragraph (1)(b) is a company, the application to the registrar shall be signed by an officer of the company authorised in that behalf.
  - (3) A statutory declaration referred to in section 5(5) of the Companies (Amendment) Act 1983 (No. 13 of 1983) and section 42(2) of the Companies (Amendment) (No. 2) Act 1999 (No. 30 of 1999) shall be made on or after
    - (a) the date of the form prescribed for the purposes of the Acts in relation to the registration of a company, or
    - (b) the date of the memorandum and articles of association of the company concerned, whichever is the later.

19. If a statutory declaration of solvency for the purposes of section 256(1) (inserted by the Companies Act 1990) is made on the date of the passing of the resolution for winding up the company concerned –
  - (a) the time of the making of the statutory declaration shall be stated in the declaration, and
  - (b) the time of the passing of the resolution shall be stated in the resolution.
20. A copy of a resolution passed by a company for the purpose of a creditors' voluntary winding up of the company and delivered must bear a certificate signed by the liquidator of the company to the effect that the copy is a true copy of the resolution.
21. A document shall not refer to a person who is an officer, liquidator, receiver, or examiner, of a company or a person referred to in section 352(1)(c) unless the registrar has been notified, as required under the Acts, of the name and appointment of the person.
22. (1) Documents delivered by the liquidator of a company shall not relate to a period, or to accounts for a period, beginning at any time after its incorporation and after a period for which accounts of the company, or any other documents of the company for that period required by or under the Acts to be delivered, have not been delivered.
  - (2) The return in relation to a company of a liquidator –
    - (a) under section 263, in the case of a members' voluntary winding up,
    - (b) under section 273, in the case of a creditors' voluntary winding up, or
    - (c) under section 306 or Order 74 Rule 130 of the Rules of the Superior Courts (S. I. No. 15 of 1986) or any rules of court for the time being amending or replacing that Order, in the case of a court winding up, shall not relate to a period that is after another period during the liquidation for which no return in relation to the company has been delivered.
23. (1) A copy of the text of a resolution passed by a company that is delivered shall be signed either by a director of the company whose appointment as a director has been notified to the registrar or, if the appointment of the secretary of the company as secretary has been so notified, by the secretary.
  - (2) A document shall not consist of or include a copy of the text of a resolution of a company in a voluntary winding up of the company if a statutory declaration of solvency under section 256 has not been delivered.
24. The registrar shall not accept any documents relating to the winding up of a company unless the registrar has received –
  - (a) a copy of the resolution for the winding up of the company, in the case of a voluntary liquidation, or
  - (b) an office copy of the order of the court directing the winding up of the company, in any other case.

GIVEN under my hand,  
15th February 2002.

NOEL TREACY,  
Minister of State at the Department of Enterprise, Trade and Employment

COMPANIES REGISTRATION OFFICE

**Public Office:** Parnell House, 14 Parnell Square, Dublin 1

**Postal Enquiries:** O'Brien Road, Carlow

Lo Call: 1890 220 226

Tel: +353 1 804 5200 Fax: +353 1 804 5222

Email: [info@cro.ie](mailto:info@cro.ie) Web: [www.cro.ie](http://www.cro.ie)

AN OIFIG UM CHLÁRÚ CUIDEACHTAÍ

**Oifig Poiblí:** 14 Cearnóg Pharnell, Baile Átha Cliath 1

**Fiosruithe:** Bóthar Uí Bhriain, Ceatharlach

Lóghlao: 1890 220 226

Fón: +353 1 804 5200 Faics: +353 1 804 5222

Ríomphost: [info@cro.ie](mailto:info@cro.ie) Láithreán: [www.cro.ie](http://www.cro.ie)