



Office of the Director
of Corporate Enforcement
*Oifig an Stiúirthóra um
Fhorfheidhmiú Corparáideach*

ODCE Information Notice I/2007/2

Summary

With effect from 1 April 2007, disclosure rules with respect to company particulars on certain hard copy company documentation are extended to company websites and certain company electronic communications as a result of recent regulations made by the Minister for Enterprise, Trade and Employment¹.

These requirements provide, in the interests of transparency, consumers and others with basic information on the companies with which they may be dealing.

Existing and Continuing Position in relation to Irish-Registered Companies

Limited Liability Companies

Unless otherwise exempt, every Irish-registered limited liability company is obliged to include the following details in its business letters (whether or not the letters contain its trading name):

- (1) the name of the company² and the company's legal form;
- (2) in respect of every director and shadow director of the company –
 - (a) his/her present Christian name (forename), **or the initials thereof** and surname;
 - (b) his/her former Christian name (forename) and surname; and
 - (c) his/her nationality if not Irish³;
- (3) the place of registration of the company, the number with which it is registered and the address of its registered office;

¹ Regulation 9 of the European Communities (Companies) Regulations, 1973 (SI 163 of 1973) as amended by the European Communities (Companies) (Amendment) Regulations, 2007

² Section 114 of the Companies Act 1963.

³ Section 196 of the Companies Act 1963.

- (4) in the case of a company exempt from the obligation to use the word "limited" or "teoranta" as part of its name, the fact that it is a limited company;
- (5) in the case of a company which is being wound up, the fact that it is being wound up;
- (6) if there is reference to the share capital of the company on any letters or order forms, the reference shall be to the paid-up share capital⁴;

Every Irish-registered limited liability company is also required to include the information at (1), (3), (4), (5) and (6) above on its order forms for goods and services⁵. In addition, it is obliged to state its name on other company documents including all invoices, cheques, money orders and receipts.

Unlimited Companies

Every Irish-registered unlimited company is required to disclose the name of the company and the particulars at (2) above on its business letters, and it is also obliged to state its name on other company documents including all invoices, cheques, money orders and receipts.

Disclosure by Branches of Foreign Registered Bodies Corporate

Where a body corporate is registered in another European Union State and operates its business through an establishment in Ireland, every letter and order form used by a branch of that body corporate must include the information at (3), (4), (5) and (6) above⁶.

Where a body corporate is registered in another country apart from a European Union State and operates its business through a an establishment in Ireland, every letter and order form used by a branch of that body corporate shall include the following information –

- (a) the place of registration of the branch and the number with which it is registered;
- (b) if the law of the State in which the company is incorporated requires entry in a register, the place of registration of the company and the number with which it is registered;

⁴ Regulation 9 of the European Communities (Companies) Regulations 1973 (as amended) includes the requirements in paragraphs (3) to (6) above.

⁵ Regulation 9 of the European Communities (Companies) Regulations 1973.

⁶ Regulations 3 and 5 of the European Communities (Branch Disclosure) Regulations 1993.

- (c) if there is reference to the share capital of the company on any letters or order forms, the reference shall be to the paid-up share capital⁷.

Extension of Requirements to Websites and Electronic Communications

With effect from 1 April 2007, every Irish-registered limited liability company will be obliged to display on its website the information referred to in paragraphs (1), (3), (4), (5) and (6) above.

Similarly, company letters and order forms for goods and services, whether in paper form or in any other medium (such as e-mails and faxes), will have to contain the information referred to in paragraphs (1), (3), (4), (5) & (6) above.⁸

These new requirements do not apply to –

- Irish registered unlimited liability companies ; or
- branches of foreign-registered bodies corporate.

Failure to comply with the provisions mentioned above is a summary offence.

Suggested Action

As the extended requirements will be effective shortly, company directors, secretaries and managements should take steps to acquaint their relevant staff, contractors and/or webmasters immediately of these requirements, and websites and order forms should be reviewed and brought into compliance as soon as possible.

Directors and secretaries should review regularly company letterheads and documents in whatever form in order to ensure continuing compliance with these requirements.

Office of the Director of Corporate Enforcement
13th February 2007

⁷ Regulations 3 and 5 of the European Communities (Branch Disclosure) Regulations 1993.

⁸ The European Communities (Companies) (Amendment) Regulations 2007.

Existing Statutory Requirements for Company Letterhead and Order Forms for Companies Registered in Ireland

Section 114(1)(c) of the Companies Act 1963

Every company... shall have its name mentioned in legible characters in all business letters of the company and in all notices and other official publications of the company, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all invoices, receipts and letters of credit of the company.

Section 196(1)-(3) of the Companies Act 1963

- (1) Subject to subsection (2), every company to which this section applies shall, in all business letters on or in which the company's name appears and which are sent by the company to any person, state in legible characters in relation to every director the following particulars:
 - (a) his present Christian name, or the initials thereof, and present surname; and
 - (b) any former Christian names and surnames; and
 - (c) his nationality, if not Irish.
- (2) If special circumstances exist which render it in the opinion of the Minister expedient that such an exemption should be granted, the Minister may, subject to such conditions as he may think fit, grant exemption from the obligations imposed by this section.
- (3) This section shall apply to—
 - (a) every company registered under this Act or under the Companies (Consolidation) Act, 1908, unless it was registered before the 23rd day of November, 1916, and
 - (b) every company incorporated outside the State which has an established place of business within the State, unless it had established such a place of business before the said date; and
 - (c) every company licensed under the Moneylenders Act, 1933, whenever it was registered or whenever it established a place of business.

European Communities (Companies) Regulations 1973

Regulation 3

These regulations apply to every company, being a company registered under the Act with limited liability or an unregistered company with limited liability to which certain provisions are applied by section 377 (1) of the Act, and the terms "company" and "unregistered company" shall be construed accordingly.

Regulation 9

- (1) Every company shall have the following particulars on its letters and order forms—
 - (a) the place of registration of the company and the number with which it is registered;
 - (b) the address of the registered office;
 - (c) in the case of a company exempt from the obligation to use the word "limited" or "teoranta" as part of its name, the fact that it is a limited company;
 - (d) in the case of a company which is being wound up, the fact that it is so.
- (2) If on any letters or order forms there is reference to the share capital of the company, the reference shall be to the paid-up share capital.

European Communities (Branch Disclosure) Regulations 1993

PART II

Branches of Companies From Other Member States of the European Communities

Application of this Part

Regulation 3

This Part applies to a company—

- (a) to which article 1 of the 1968 Directive applies,
- (b) which is incorporated in another Member State of the European Communities, and
- (c) which establishes a branch in the State,

and references in this Part to a company shall be construed accordingly.

Letterheads

Regulation 5

- (1) Every letter and order form used by a branch of a company shall bear the following particulars—
 - (a) the place of registration of the company and the number with which it is registered;
 - (b) the legal form of the company and the address of its registered office;
 - (c) in the case of a company which is being wound up, the fact that that is so;
 - (d) the place of registration of the branch and the number with which it is registered.
- (2) If on any letters or order forms there is reference to the share capital of the company, the reference shall be to the paid-up share capital.

PART III

Branches of Companies From States Other Than Those Under Part II

Application of this Part

Regulation 6

This Part applies to a company—

- (a) which is incorporated outside the State, other than a company to which Part II applies,
- (b) which is of a legal form comparable to a company to which Article 1 of the 1968 Directive applies, and
- (c) which establishes a branch in the State,

and references in this Part to a company shall be construed accordingly.

Letterheads

Regulation 8

- (2) Every letter and order form used by a branch of a company shall bear the following particulars—
 - (a) the place of registration of the branch and the number with which it is registered;
 - (b) if the law of the State in which the company is incorporated requires entry in a register, the place of registration of the company and the number with which it is registered.
- (3) If on any letters or order forms there is reference to the share capital of the company, the reference shall be to the paid-up share capital.

**Statutory Instrument
S.I. No. 49 of 2007**

European Communities (Companies)(Amendment) Regulations 2007

(Prn. A7/0175)

S.I. No. 49 of 2007
European Communities (Companies)(Amendment) Regulations 2007

I, Micheál Martin, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2003/58/EC of the European Parliament and of the Council of 15 July 2003⁹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Companies) (Amendment) Regulations 2007.

(2) The Companies Acts and these Regulations shall be construed together as one.

(3) These Regulations shall come into operation on 1 April 2007.

2. In these Regulations “Principal Regulations” means the European Communities (Companies) Regulations 1973 (S.I. No. 163 of 1973), as amended by the European Communities (Companies) Regulations 2004 (S.I. No. 839 of 2004).

⁹ OJ No. L 221, 4.9.2003, p.13.

3. The Principal Regulations are amended -

- (a) by inserting after Regulation 2 the following:

“Interpretation

2A. (1) In these Regulations -

‘certified translation’ means certified to be a true and correct translation in accordance with rules drawn up by the registrar of companies and published in the Companies Registration Office Gazette;

‘Directive’ means First Council Directive 68/151/EEC of the Council of the European Communities of 9 March 1968¹⁰, as amended by Directive 2003/58/EC of the European Parliament and of the Council of 15 July 2003¹;

‘letters and order forms’ means letters and order forms in paper form or in any other medium.

¹ OJ No. L 221, 4.9.2003, p. 13.

¹⁰ OJ No. L 65, 14.3.1968, p.8.

(2) A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations as it has in the Directive.”,

(b) in Regulation 4 -

(i) in paragraph (1), by substituting for subparagraph (g) the following:

“(g) its annual return and the accounting documents that are required to be published in accordance with -

(i) Fourth Council Directive 78/660/EEC of 25 July 1978¹¹,

(ii) Seventh Council Directive 83/349/EEC of 13 June 1983¹²,

¹¹ OJ No. L 222, 14.8.1978, p.11.

¹² OJ No. L 193, 18.7.1983, p.1.

(iii) Council Directive 86/635/EEC of 8
December 1986¹³, and

(iv) Council Directive 91/674/EEC of 19
December 1991¹⁴,” and

(ii) by adding after paragraph (3) the following paragraphs:

“(4) For the purposes of the provisions of Article 3(3) of the Directive the registrar of companies shall ensure that certification of electronic copies of documents or particulars guarantees both the authenticity of their origin and the integrity of their contents, by means at least of an advanced electronic signature within the meaning of Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999⁷.

(5) Any document or particular specified in these Regulations that is required to be delivered to the registrar of companies shall be drawn up in the Irish or English language, and may be accompanied by a certified

¹³ OJ No. L 372, 31.12.1986, p.1.

¹⁴ OJ No. L 374, 31.12.1999, p.7.

⁷ OJ No. L 13, 19.1.2000, p. 12.

translation of that document or particular into any other official language of the European Communities.

(6) Where a certified translation pursuant to paragraph (5) has been voluntarily disclosed and there is a discrepancy between -

(a) a document or particular required to be delivered or disclosed to the registrar of companies under paragraph (5), and

(b) the certified translation accompanying it,

the certified translation -

(i) may not be relied upon by the company as against any person dealing with the company, and

(ii) may be relied upon by a person dealing with the company as against

that company, unless the company proves that the person dealing with the company had knowledge of the document or particular in the Irish or English version.”,

(c) by substituting for Regulation 9 the following:

“Letters, order forms and websites

9. (1) Every company shall include the following particulars on its letters and order forms:

- (a) the name and legal form of the company;
- (b) the place of registration of the company and the number with which it is registered;
- (c) the address of the registered office of the company;
- (d) in the case of a company exempt from the obligation to use the word ‘limited’ or

‘teoranta’ as part of its name, the fact that it is a limited company;

(e) in the case of a company that is being wound up, the fact that it is being wound up;

(f) if reference is made in the letter or order form to the share capital of the company, the reference shall be to the capital that is subscribed and paid up.

(2) Where a company has a website, it shall display in a prominent and easily accessible place on that website the particulars referred to in subparagraphs (a) to (f) of paragraph (1), except that the reference in subparagraph (f) to ‘in the letter or order forms’ shall be construed as a reference to ‘on the website’.

”, and

(d) by substituting for Regulation 12 the following:

“Offences and penalties

12. (1) If a company fails to comply with Regulation 4, 5, 7 or 9, the company and -

- (a) every officer of the company who is in default, and
- (b) any person in accordance with whose directions or instructions the directors of the company are accustomed to act and to whose directions or omissions the default is attributable,

shall be guilty of an offence.

(2) A person who is convicted of an offence under these Regulations shall be liable, on summary conviction, to a fine not exceeding €2,000.

(3) Where a person has been convicted of an offence under these Regulations and there is a continuation of the offence by the person after his or her conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable, on summary conviction, to a fine not exceeding €100 for each day on which the offence is so continued.”.

GIVEN under my Official Seal,

6 February, 2007

Micheál Martin

Minister for Enterprise,

Trade and Employment.