

The Companies Act 2014

Topic: Commencement

May 2015



The Ministerial Order (SI 169 of 2015) (the ‘Order’) commencing the Companies Act 2014 (hereafter “the Act”) has now been issued. As expected the Order provides that the vast majority of the Act will come into force on 1 June 2015, with some limited exceptions. We discuss these limited exceptions and other relevant matters regarding commencement and transition below.

Exceptions to commencement

The Order confirms that the 1 of June 2015 is the appointed day on which the Act comes into operation. However, there are certain sections that will not come into force on this date:

- the repeal of Part V of the Companies Act 1990 – the prohibition of insider dealing on non-regulated markets – is being deferred and therefore this law continues until further notice;
- certain technical provisions relating to mergers of public limited companies are preserved; and
- the repeal of the Bank of Ireland Acts is deferred pending the re-registration of Bank of Ireland as a company under the Act.

Also the Order clarifies that certain accounting related provisions will only apply for companies whose financial year begins on or after 1 June 2015 – essentially these provisions come into force on the first day of the next financial year of a company after the 1 June 2015 commencement date.

Those provisions are:

Section	Detail
167	Requirement to form an audit committee for large private companies
225	Requirement to prepare a directors' compliance statement
305 (1)(b)	Disclosure of Directors' remuneration – gains on exercise of share options
306(1)	The disclosure in financial statements of the amounts paid to persons connected with a director
326(1)(a)	The disclosure in a Directors' Report of the names of persons who at any time during the year were directors of the company
330	Statement in Directors' Report on relevant audit information

Transition period

From the 1 June 2015 we will have the ‘transition period’. During this transition period, all Private Limited companies have 18 months to re-register to one of the new corporate forms as provided for under the Act. Therefore, all existing Private Limited companies will have to consider their options in relation to re-registering and will have the following options:

- elect to convert to the new model Private Company Limited by shares (“LTD”);
- elect to convert to a Designated Activity Company (“DAC”);
- re-register as another type of company; or
- make no election – company automatically becomes a LTD.

During the transition period, private companies are deemed to be DACs until a specific election is made.

We would recommend that as part of this process, companies should consider whether their articles and memorandum of association (“constitution” under the Act) need to be updated.

Financial statements – implications

Following the issue of the Order, the Companies Registration Office have clarified their approach in relation to financial statements attached to annual returns delivered to the Registrar on or after 1 June 2015. This is set out below:

Financial Statements to be filed with the CRO after 1 June 2015	Financial Statements signed before 1 June 2015	Financial Statements signed after 1 June 2015
Financial Year ending before 1 June	1963-2013 Acts	2014 Act
Financial Year ending after 1 June	N/A	2014 Act
Financial Year beginning after 1 June	N/A	2014 Act

Companies wishing to complete and file financial statements under the Companies Acts 1963 – 2013 are required to have those financial statement approved by the directors before 1 June 2015. If a company does not have the financial statements approved before the commencement date, then the provisions of the 2014 Act will apply and consideration will need to be given as to whether any changes contained in the Act which are effective as of 1 June 2015 (e.g. audit exemption, group audit exemption, consolidate exemption etc) have a direct impact on the relevant financial statements.

Conclusion

The Order has confirmed that the Act will come into force on 1 June 2015 with the exception of certain provisions. Companies that have not yet approved their financial statements can consider whether there is merit in delaying approval until after the commencement date and therefore potentially take advantage of some beneficial provisions of the Act.

Furthermore, companies must now begin to consider what type of company format they will adopt and if relevant, register their choice within the 18 month transition period.

Contact

If you require assistance or want to learn more about the Companies Act 2014, please refer to our other publications at www.grantthornton.ie or contact our Companies Act 2014 team at companiesact2014@ie.gt.com.

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