



# COMPANIES ACT 2014

## WHAT DO THE CHANGES MEAN FOR YOU?

In summary:

- The companies Act 2014 (the 2014 Act) was enacted on 23 December 2014 and will come into effect on 1 June 2015.
- The legislation consolidates all previous acts and comprises a total of 25 parts, 1448 sections and 17 Schedules.
- The 2014 Act recognises that most Irish companies are private companies limited by shares, which company type is now treated as the “default” type of company. The 2014 Act simplifies the law relating to such private limited companies (LTD’s).
- One of the significant changes introduced by the 2014 Act is the creation of a new form of Irish private limited liability company – being the Designated Activity Company (the DAC).



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What do the changes mean for you?

## **New Types of Entity**

### **Private Company Limited by Shares (LTD)**

Creation of a new Model Company – Private Company Limited by Shares (LTD) – this will replace the existing private limited company with a simplified format allowing for a single document constitution, no requirement for an AGM and only one director required. No name change required.

### **Designated Activity Company (DAC)**

Creation of a new Designated Activity Company (DAC) – certain companies will be required to register as a DAC, e.g. regulated financial institutions. These companies will have a two document constitution and must have two directors. A name change will be required.

NEW TYPES  
OF ENTITY  
UNDER THE  
COMPANIES  
ACT 2014



## Other Types of Entities

### 1. Guarantee Companies (CLGs)

- Will have a Memorandum and Articles of Association with a main objects clause
- May opt to have just one member
- Will be able to avail of the audit exemption
- Name changes to include words "Company Limited by Guarantee" or "CLG" at the end of its name
- Must have two directors

### 2. Unlimited Companies (UCs)

- An unlimited company will have a Memorandum and Articles of Association
- It will have an objects clause
- It may opt to have just one member
- Name changes to include words "Unlimited Company" or "UC" at the end of its name
- It must have two directors.

### 3. Public Limited Companies (PLCs)

- Company permitted to have shares listed on the stock exchange
- Will have a Memorandum and Articles of Association
- Will have a main object clause
- It may opt to have just one member
- No name change
- It must have two directors.

## OTHER TYPES OF ENTITY



## What do companies need to consider to choose the best options for them?

The coming into force of the 2014 Act will require all owners/directors of Irish companies to carry out various actions, and to make filings, summarised below, within an 18 month "Transition Period" after the Commencement Date (1<sup>st</sup> June 2015).

Most existing private limited companies (EP's) will be converted into either a LTD, or a DAC. Such conversion may be carried out by the EP's members or directors (in certain circumstances) during the Transition Period.

Certain EP's are prohibited from becoming LTD's and will be required to re-register as DAC or some other type of company e.g. Credit Institutions, Insurance Companies and EP's which have listed their debt. Any private company which lists its debt must become a DAC.

### Transition Period

During the Transition Period each EP is treated as a DAC until it exercises one of 3 options:

1. Members resolve, during the Transition Period, to become a LTD; or
2. Members or Directors (in certain circumstances) resolve to become a DAC up to 3 months before end of the Transition Period; or
3. Do nothing – in which case the EP will continue as a DAC for 15 months but then be automatically deemed to become a LTD at end of Transition Period.

HOW TO  
SELECT?



## Other Considerations

- a) The Act sets out in one place the provisions relating to the keeping of accounting records, the preparation of financial statements and the audit of financial statements providing additional clarity for directors and companies.
- b) The Company Secretary must now have the requisite skills or resources necessary for this role, or access thereto.
- c) Audit exemption expanded to include small group companies and guarantee companies (i.e. Turnover of <€8.8m, employees <50, assets <€4.4m)
- d) Directors Compliance Statement – the directors of certain large private limited companies and all public limited companies will be required to produce a compliance statement to be included in the director's report on the financial statements.
- e) Company Law Offences categorised 1 to 4 (1 being the most serious and carrying a maximum fine of EUR 500,000 and/or up to a maximum of 10 years in prison).
- f) Requirements encouraging loans to directors to be properly documented.
- g) Formalising the voluntary strike off process and therefore differentiating between voluntary and involuntary strike off.
- h) Summary Approval Procedure introduced to simplify the procedure for certain restricted activities.
- i) Law relating to the winding up of a company updated and now provides more consistency between members voluntary, creditors voluntary and official windings up.
- j) Persons Authorised to Bind the Company – options to register individuals authorised to bind the company with the Companies Registration Office.
- k) Charges and Registration of Charges – priority of registration of charges and a two stage procedure for registration of particulars of charges.

## Directors Duties and Responsibilities

Directors now obliged to:

- avoid conflicts of interest
- not use company property unless approved by the members or the company constitution
- act honestly and responsibly
- exercise care, skill and diligence
- act in good faith
- have regard for the interests of members as well as employees and
- act in accordance with the company's constitution and to exercise those powers only for lawful purposes

# DIRECTORS DUTIES



## Contact

If you have any queries in relation to what this change means for your business please don't hesitate to contact us.



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