



STATUTORY INSTRUMENTS.

S.I. No. 49 of 2007



EUROPEAN COMMUNITIES (COMPANIES) (AMENDMENT)
REGULATIONS 2007

(Prn. A7/0175)

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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 2003¹, 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).

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 1968², 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.

(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.”

¹OJ No. L 221, 4.9.2003, p.13.

²OJ No. L 65, 14.3.1968, p.8.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th February, 2007.*

(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 1978³,

(ii) Seventh Council Directive 83/349/EEC of 13 June 1983⁴,

(iii) Council Directive 86/635/EEC of 8 December 1986⁵, and

(iv) Council Directive 91/674/EEC of 19 December 1991⁶,”
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 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

³OJ No. L 222, 14.8.1978, p.11.

⁴OJ No. L 193, 18.7.1983, p.1.

⁵OJ No. L 372, 31.12.1986, p.1.

⁶OJ No. L 374, 31.12.1999, p.7.

⁷OJ No. L 13, 19.1.2000, p. 12.

(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.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give further effect to Directive 2003/58/EC amending Directive 68/151/EEC (“First Company Law Directive”). They provide for the certification of electronic copies of company documents and particulars obtainable from the Companies Registration Office. The Regulations also make provision for the voluntary filing of certified translations of company documents and particulars filed obligatorily in Irish or English. They also extend existing information disclosure requirements concerning letter and order forms to such communication in electronic form and to company websites.

Publication of company documents and particulars by electronic means in the Companies Registration Office Gazette was provided for by S.I. No. 839 of 2004.

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