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COMPANIES REGISTRATION OFFICE
AN OIFIG UM CHLÁRÚ CUIDEACHTAÍ



COMPANY INCORPORATION

INFORMATION LEAFLET NO.1 / JULY 2009

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1. INTRODUCTION

1.1 Companies Registration Office

The Companies Registration Office (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

- 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 01 804 5200 or Lo Call 1890 220 226*. Clients are also invited to contact the Office by email at 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 and, where applicable, on payment of a small fee. While 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 from the website, 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/search. 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, email electronic_filing@entemp.ie or telephone Electronic Filing Section. (01) 8045355/5374.

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 on 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. 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 or at the Office. For further information regarding online services, visit www.cro.ie, email electronic_filing@entemp.ie or telephone Electronic Filing Section. (01) 8045355/5374.

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

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

1.4 Types of company

Basically, there are two types of company, 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.

There are four types of private company:

- Private limited by share capital
- Single member private limited by capital
- Unlimited company
- Guaranteed limited company with share capital

There are four types of public company:

- Public limited company
- Public unlimited company
- Guaranteed company without share capital
- Societas Europaea

1.5 Additional information

All forms (and associated filing fees) and information leaflets referred to in this publication are available at www.cro.ie.

1.6 Caution

This leaflet does not seek to interpret the Companies Acts in any way. While the staff of the CRO will answer any questions you may have, setting up a company brings with it many obligations and entails consequent expense. It may be worthwhile taking advice from a solicitor or accountant as to whether an incorporated company is the best way for you to run your particular business.

2. COMPANY TYPES

2.1 What is a limited company?

The shares in a company are owned by its shareholders. If the company is a limited liability company, the shareholders' liability, should the company fail, is limited to the amount, if any, remaining unpaid on the shares held by them. A company is regarded as a separate legal entity and, therefore, is separate and distinct from those who run it. The company (and not the individual shareholders) is the appropriate person to be sued in the event that debts are incurred by the company which remain unpaid despite demand.

There are four types of limited companies:

A private limited company limited by shares: The members' liability, if the company is wound up, is limited to the amount, if any, unpaid on the shares they hold. The maximum number of members is 99.

A company limited by guarantee not having a share capital: As this is a public company, there must be a minimum of seven members. The members' liability is limited to the amount they have undertaken to contribute to the assets of the company, in the event it is wound up, not exceeding a specified amount and subject to a minimum of €1. If a guarantee company does not have a share capital, the members are not required to buy any shares in the company. Many charitable and professional bodies find this form of company to be a suitable vehicle as they wish to secure the benefits of separate legal personality and of limited liability but do not require to raise funds from the members.

A company limited by guarantee having a share capital: As this is a private company, the maximum number of members is 99. The members have liability under two headings; firstly, the amount, if any, that is unpaid on the shares they hold, and secondly, the amount they have undertaken to contribute to the assets of the company, in the event that it is wound up, being not less than €1.

A public limited company: This company type must have a minimum of seven members. Their liability is limited to the amount, if any, unpaid on shares held by them. It should be noted that it is unlawful to issue any form of prospectus except in compliance with the Companies Acts 1963-2009

2.1.1 What is a single-member company?

A single-member company is a private company limited by shares or a guarantee company having a share capital, which is incorporated with one member, or whose membership is reduced to one person. However, the company must have at least two directors and a secretary. For further information on a single-member company, see Information Leaflet No. 12, "Single-Member Company".

2.1.2 What are the characteristics of a limited company?

- Unlike a sole trader or partnership, the company has a separate legal existence. This means that it is the company itself which owns property and that it is the company which may sue and be sued in respect of the business of the company.
- The company continues to trade irrespective of director or management changes until the company is wound up.
- There is limited liability. This means that, should the company fail, the shareholders' liability is limited to the amount of share capital contributed by them (i.e. the price of the shares held by them). The personal assets of directors/shareholders cannot be seized to pay off company debts.

2.2 What is an unlimited company?

In an unlimited company, there is no limit on the liability of the members. Recourse may be had by creditors to the shareholders in respect of liabilities that may be owed by the company which the company had failed to discharge. Such company must have a minimum of two shareholders if it is a private company and a minimum of seven if it is a public company.

2.3 What is a UCIT?

A UCIT is a public limited company formed under EU Regulation (European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 & 1999) and the Companies Acts 1963-2009. The sole object of a UCIT is the collective investment in transferable securities of capital raised from the public that operates on the principle of risk-spreading. The competent authority, which must approve all registrations of UCITS that wish to carry on activities within the State, is the Central Bank of Ireland.

2.3.1 How can I register a UCIT?

Submit Form A1 (form of incorporation of a new company) and the draft memorandum and articles of association to the CRO.

2.4 What is a Societas Europaea?

A Societas Europaea or SE is a European public limited company formed under EU Regulation (Council Regulation 2157/2001) and Statutory Instrument 21 of 2007. SE's can be formed by merger, as a holding company or subsidiary or by conversion from a plc. Article 3 and 10 of the Regulation requires Member States to treat an SE as if it is a public limited company formed in accordance with the law of the Member State in which it has its registered office.

An SE can be formed in several different ways, each with different requirements:

- by merger,
- as a holding company,
- as a subsidiary,
- an SE can form a subsidiary SE.
- an SE can be formed by a PLC converting into an SE.

Upon registration, an SE has legal personality. The registered office and the head office must be in the same Member State. A Societas Europaea has share capital and no shareholder is liable for more than the amount subscribed. An SE is required to have a minimum amount of subscribed share capital of at least EUR 120,000. Please see Information Leaflet 19 - Societas Europaea.

2.5 What is an EEIG?

An EEIG is a European Economic Interest Grouping. This is a mechanism through which business within the EU can engage in cross-border commerce. The purpose of an EEIG is to facilitate or develop the economic activities of its members.

An EEIG must have a minimum of two, up to a maximum of 20 members, who may be companies or natural persons, from different Member States. The manager of a Grouping may be a natural person or a body corporate.

On registration, a Grouping shall:

- be a body corporate
- have perpetual succession and a common seal
- have legal personality

2.5.1 How can I register an EEIG?

Form IG1 must be completed and lodged together with the contract signed by the members. The contract should include:

- Name of Grouping
- Official address
- Objects of the Grouping
- Name, business name, legal form, permanent address or registered office, number, and place of registration, if any, of each member
- The duration of the Grouping, except where indefinite.

3. FORMING A COMPANY

3.1 Who may form a company?

The Companies Acts generally allow one or more persons to form a private company for any lawful purpose by subscribing to a memorandum of association. However, a public limited company, a public unlimited company, or a company limited by guarantee not having a share capital, must have at least seven subscribers. A private company may have a maximum of 99 members and there is no limit on the number of members of a public company.

3.2 How do I form a company?

You need to send the following documents, together with the registration fee, to the CRO:

- **Memorandum of association**

This document sets out the conditions upon which the company is granted incorporation. It must contain provisions dealing with certain matters e.g. the name and objects of the company and, if it is a company with limited liability, that fact must be also stated. The memorandum must be in accordance with, or as near as circumstances permit, to the appropriate table in the First Schedule of the Companies Act 1963. It must be printed and divided into paragraphs and numbered consecutively.

Company type

Private company limited by shares
Company limited by guarantee and not having a share capital
Company limited by guarantee and having a share capital
Unlimited company
Public limited company

Table

B
C
D
E

Second Schedule of
Companies (Amendment) Act 1983

- **Articles of association**

This document sets out the rules under which the company proposes to regulate its affairs. Articles are required to be registered by a company limited by guarantee and having a share capital or an unlimited company. Articles must be printed and divided into paragraphs and numbered consecutively. A company limited by shares or a guarantee company not having a share capital may register articles with the CRO. Model form articles are set out in the First Schedule to the Companies Act 1963.

Company type

Public limited company
Private company limited by shares
Company limited by guarantee and not having a share capital
Company limited by guarantee and having a share capital
Unlimited company

Model articles

Table A Part I
Table A Part II
Table C
Table D
Table E

If no articles are adopted, it is taken that the articles in the relevant table of the 1963 Act apply.

The CRO does not provide drafts of the memorandum or articles of association to be used by companies. Samples of these documents may be obtained from legal stationers, accountants, solicitors or company formation agents.

- **Form A1**

This form requires you to give details of the company name, its registered office, details of its secretary and directors, their consent to acting as such, the subscribers and details of their shares. It incorporates a statutory declaration that the requirements of the Companies Acts have been complied with, and as to activity which the company is being formed to engage in.

3.3 What is a registered office address?

It is the address of a company to which CRO correspondence and all formal legal notices addressed to the company will be sent. The registered office can be anywhere in the State. 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 a company keeps the CRO informed of the location of its registered office address. A company notifies its change of address by sending a completed Form B2 within 14 days of the date of the change. The form may be filed free of charge by completing the web version on www.core.ie.

3.4 What is the minimum number of officers required by a company?

All company types must have one secretary and a minimum of two directors, one of whom is required to be an EEA-resident (see 3.5 below). The secretary may be one of the directors of the company. A body corporate may act as secretary to another company, but not to itself.

All company officers have wide responsibilities in law. The key requirements are contained in Information Leaflets No. 16, "The Company Secretary" and No. 2, "Six things that every company director should know about company registration", and Office of the Director of Corporate Enforcement's Information Book 2, "Company Directors", available at www.odce.ie

3.5 Is there any exemption from the requirement to have a resident director?

At least one of the directors is required to be resident in a member state of the European Economic Area (EEA). However, this requirement does not apply to any company which holds a bond, in the prescribed form (see Appendix 1), in force to the value of €25,394.76. The bond provides that, in the event of a failure by the company to pay the whole or part of a fine imposed in respect of an offence under the Companies Acts 1963-2009 or the Taxes Consolidation Act 1997, or a penalty under the latter legislation, an amount of money up to the value of the bond will be paid by the surety in discharge of the company's liability.

For further information on the definition of "resident in a member State" and bonds in general, see Information Leaflet No. 17, "Requirement to have an EEA-Resident Director".

3.6 Can anyone be a company director?

In general terms, yes. Formal qualifications are not required. However, certain persons may not become directors:

- a body corporate
- an undischarged bankrupt
- an auditor of the company
- as specified by the articles of association e.g. if a director fails to attend board meetings without reasonable excuse for a specified period of time, or he/she becomes of unsound mind
- a person disqualified as a director by the High Court under section 160 Companies Act 1990 is debarred from becoming a director for the period specified in the court order¹
- a person who has been convicted on indictment of any indictable offence in relation to a company, or any indictable offence involving fraud or dishonesty, is automatically disqualified for five years (or for such period as the court may order) from being appointed as a director or from being concerned in any way in the promotion, management or formation of any company
- if an appointment as director would cause a person to exceed the statutory limit on the number of directorships imposed by section 45 Companies (Amendment)(No.2) Act 1999, that appointment is void (see 3.7 below)

¹ The CRO maintains a register of currently disqualified directors as notified to it by the courts

If the articles of the company oblige a person to hold a minimum number of shares in the company as a pre-condition to being appointed as director, such condition must be completed with, within two months after his/her appointment or within such shorter time as the articles may specify.

A person restricted as a director by the High Court pursuant to section 150 Companies Act 1990 may not become a director of a company for a period of five years, unless the company has a minimum fully paid up share capital of €317,434.50 in the case of a public limited company, or €63,486.90 (any other company).

3.7 Is there a limitation on the number of Irish directorships that may be held by a person?

Yes – a person shall not at a particular time be a director of more than 25 companies.

Certain companies, however, are not reckoned for the purpose of calculating the number of companies of which a person is a director. The following categories of company are not reckoned in the assessment of a person's number of directorships:

- (a) a public limited company
- (b) a public company (within the meaning of the Companies (Amendment) Act 1983)
- (c) a company in respect of which a certificate under section 44(2) Companies (Amendment) (No.2) Act 1999 is in force

Where a person is a director of two or more companies, one of which is the holding company of the other(s), these are counted as the one company.

In addition, where the company is a company falling within one or more categories of company specified in the table to section 45 Companies (Amendment)(No. 2) Act 1999², the director or the company may deliver to the Registrar **Form B68** for his consideration.

Form B68 is required to be signed by:

- (a) either a director or secretary where the company in question wishes to be excluded from consideration for the purposes of calculating the number of companies of which any person is a director for the purposes of section 45, **or**
- (b) a person who is or expects to become a director of the company concerned and who wishes it to be excluded from consideration in calculating the number of companies of which he/she is a director for the purposes of section 45.

If the Registrar refuses to issue a certificate on foot of a Form B68, there is a right of appeal to the Minister for Enterprise, Trade & Employment, who has the right to substitute his decision for that of the Registrar. The Minister can also direct that a company is not to be included amongst the companies that are reckoned for the purposes of section 45(1).

Any person who contravenes section 45(1) is guilty of an offence, which is prosecutable by the Registrar. An appointment of a person as a director of a company which contravenes section 45(1) is void.

3.8 May a director/secretary, who is currently disqualified in another jurisdiction from acting as such, be appointed as a director on incorporation?

Yes. However, if a person who is being appointed director of a company is a person who is currently disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or undertaking, that person is required by law³ to ensure that the Form A1 is accompanied **Form B74**.

² The table to section 45 is as follows:

1. A company that is the holder of a licence under section 9 Central Bank Act 1971 or is exempt from the requirement under that Act to hold such a licence.

2. A person referred to in the Second Schedule to the Companies (Amendment)(No. 2) Act 1999 (see Appendix 2).

³ Section 3A Companies (Amendment) Act 1982 (inserted by section 101 Company Law Enforcement Act 2001)

On receipt of a Form B74, the CRO notifies it to the Office of the Director of Corporate Enforcement (ODCE). The ODCE may apply to the High Court pursuant 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 had occurred in Ireland, it would have been proper to make a section 160 disqualification order against him.

If Form B74 is not delivered with Form A1 or if the form is false or misleading in a material respect, then upon the delivery to the CRO of Form A1, the individual concerned is deemed to be subject to a disqualification order for the remainder of period of the foreign disqualification.

Non-delivery of Form B74 with Form A1 when it should have been delivered accordingly results in automatic disqualification of the individual concerned from acting as auditor, director or other officer, receiver, liquidator or examiner and precludes him/her 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.

3.9 Must the company carry on an activity in the State?

A company will not be incorporated unless it appears to the Registrar of Companies that the company, when registered, will carry on an activity in the Republic of Ireland. "Activity" means "any activity that a company may be lawfully formed to carry on and includes the holding, acquisition or disposal of property of whatsoever kind".

Form A1 contains a declaration that one of the purposes for which the company is being formed is the carrying on by it of an activity in the State. The declaration contains the following particulars:

- the general nature of the activity and the appropriate NACE code classification (The NACE code is the common basis for statistical classifications of economic activities within the EU and can be accessed on www.cro.ie.)
- the place(s) in the State where it is proposed to carry on the activity
- the place, whether in the State or not, where the central administration of the company will normally be conducted

In the event a company is being formed to conduct two or more activities within the State, the particulars to be furnished on Form A1 relate to the principal activity.

3.10 What happens to the documents sent to the CRO?

All documents are subject to checks (see Appendix 3 for checklist). If the application and proposed company name are in order, a certificate of incorporation will issue to the presenter. The documents delivered are retained by the CRO and are made available for public inspection.

The CRO has a company incorporation scheme that streamlines the incorporation of companies which are required for immediate commercial use by their promoters (see Chapter 5, Company Incorporation Schemes).

Applications to incorporate companies can be submitted under any one of the following schemes which have different customer service standards (the latter two schemes require the memorandum and articles of association to be pre-approved by the CRO and are thus only suited where applications are submitted to the CRO in bulk e.g. by solicitors, company formation agents, etc):

Ordinary Scheme	15 working days
Fé Phrainn Scheme	10 working days
CRODisk Scheme	5 working days

4. COMPANY NAMES

4.1 Can I choose any name I want for my company?

No, there are restrictions on your choice of company name. The CRO may have to refuse a name if:

- it is identical to or too similar to a name already appearing on the register of companies
- it is offensive
- it would suggest state sponsorship

You are advised not to incur expenses relating to the proposed name (e.g. preparing signs, headed notepaper, stationery, etc.) in advance of receipt of the certificate of incorporation that will confirm that the company has been registered with the chosen name.

The following guidelines will assist you in assessing the acceptability or otherwise of company names:

- It is generally recommended that company names include extra words so as to create a sufficient distinction between names. Certain words and their abbreviations together with accents and punctuation marks are not sufficient to distinguish between company names. Examples of such words include the definite article and the words “company”, “co”, “corporation”, “and”, “&”, “service”, “services”, “limited”, etc. Place names are not considered to be a sufficient distinction between company names, e.g. Ireland, Dublin, West, etc.
- Similar descriptive elements, e.g. press/printing, staff/employment agency, or the inclusion of only a general or weak qualification such as “holding”, “group”, “system”, “services”, “international”, etc. may not be regarded as a sufficient distinction between company names.
- Particular care should be taken with names considered to have a distinctive element i.e. names consisting primarily of made-up words or non-dictionary words. The inclusion of qualifying words may not be sufficient to create a distinction between company names.
- Names which are phonetically and/or visually similar will be refused. This includes names where there is a slight variation in the spelling and the variation does not make a significant difference between the names.
- A number on its own will not be accepted as a sufficient distinguishing mark, unless the company concerned is part of the same group.
- The use of a year in numerals to differentiate between two companies of otherwise the same name is prohibited.

The following restrictions also apply to company names:

- Names containing certain words cannot be used unless approved by relevant bodies. For example, the words “bank”, “banc”, “banking”, “banker” may only be used with the permission of the Central Bank of Ireland. This also applies to names such as “hollybank”, “sweetbank”, “canal bank”, “bancorp”, etc. and the surname “Banks”, notwithstanding the fact that the company being incorporated may not intend to carry on banking business.
- Words such as “insurance”, “re-insurance” and “assurance” cannot be used unless prior permission has been sought from and granted by the Irish Financial Services Regulatory Authority (IFSRA).
- The word “society”, “co-op” or “co-operative” cannot be used unless permission has been sought from and granted by the Registrar of Friendly Societies.
- The words “University” and “Institute of Technology” or “Regional Technical College” cannot be

used unless permission has been sought from and granted by the Department of Education.

- In the case of the word “Charity”, further information may be sought by the CRO to support the application.
- If a name includes words which imply specific functions, e.g. “holding”, “group”, etc., further information may be required by the CRO to support the application.
- The use of the word “standard” is prohibited.
- The use of the word “Credit Union” is prohibited under the Credit Union Act 1997.
- Only the name of a Societas Europaea can be preceded or followed by the abbreviation SE. Use of the term ‘SE’ at the beginning or end of the name designates that it is a European Company.

4.2 Where can I check my proposed company name?

Applicants are advised to check that the name proposed is not similar to one already registered by checking the register of companies which you can do free of charge on the CRO web search facility. The search facility provides round the clock access to company information. It is identical to that available in the CRO public office and the results are instantly displayed. For further information visit www.cro.ie/search/

The CRO does not check proposed names against names on the business names register or the trade mark register. Applicants are, therefore, advised to check those registers to ensure the proposed company name does not conflict with a business name or trade mark since any person claiming to have a right to that name could take a passing off action to defend his/her interest.

You can search the business names register at the CRO (as with the register of companies, you can also use the CRO web search facility) and the trade mark register at:

The Patents Office
Hebron Road
Kilkenny

Tel 056 772 0111/Lo Call 1890 220 223*
Fax 056 772 0100/Lo Call 1890 220 120*
Email patlib@entemp.ie
Web www.patentsoffice.ie

It is important to check that the name you want is not too similar to another name on the register of companies before you submit the company formation documents. If your chosen name is too similar to the name of another company, and is accepted for registration by the CRO, through inadvertence or otherwise, an objection on grounds of similarity could be made in writing to the Registrar of Companies within six months following the incorporation of your company and you could be directed by the Registrar to change the company name. In considering whether names are too alike, the Registrar will take account of all relevant factors suggesting similarity and leading to confusion between the names of the two companies.

If the Registrar, pursuant to section 23 Companies Act 1963, directs a company to change its name, such change must take place within six weeks of the date of the Registrar’s direction or such longer period as he may allow. A company that fails to comply with the direction will be eligible for prosecution.

4.3 Where must the company name be displayed?

Every business must paint or affix its name on the outside of every office or place in which the business is carried on, even if it is a director’s home. The name must be both conspicuous and legible.

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

4.4 On which documents must the company name be shown?

The company must state its name, in legible lettering, on company letter heads, order forms, invoices, etc. For further information on the statutory requirements, see Information Leaflet No. 7, "Disclosure and Publication Requirements in relation to Companies and Business Names".

4.5 Can I incorporate a company with limited liability without including the word "limited" or "teoranta" in the company's name?

The word "limited" or "teoranta" may be dropped from the company's name where the objects of the company will be the promotion of commerce, art, science, education, religion or charity. In addition, the company's memorandum or articles of association must state that

- (a) the profits of the company (if any) or other income are required to be applied to the promotion of the objects;
- (b) payment of dividends to its members is prohibited;
- (c) all assets which would otherwise be available to its members are required to be transferred on its winding up to another company whose objects are the promotion of commerce, art, science, religion or charity.

It should be noted, however, that a company which is exempt from the obligation to use the word "Limited" or "Teoranta" as part of its name is still obliged to show on its letters and order forms the fact that it is a limited company.

4.5.1 How can I apply to exclude the word "limited" or "teoranta" from the name of the company?

Complete **Form G5** and submit this form to the CRO together with your application for incorporation. This form cannot be submitted on its own. You should ensure that the company's memorandum and articles of association comply with the statutory requirements.

If, after incorporation, you wish to apply for a licence, you must submit Form G5 with Forms G1Q and G1, along with the amended memorandum and articles of association.

For further information see Information Leaflet No. 24, "Exemption from use of "Limited"/"Teoranta" as part of company name".

5. COMPANY INCORPORATION SCHEMES

5.1 What is the Fé Phrainn Scheme?

The CRO operates a company incorporation scheme which streamlines the incorporation of companies required for immediate commercial use by company promoters. Under this scheme, the CRO guarantees to participants that they will be provided with a certificate of incorporation within ten working days of the relevant documents having been completed correctly and lodged at the CRO. The scheme applies to private companies limited by shares, unlimited companies and companies limited by guarantee.

5.1.1 How can I apply to join the scheme?

Company promoters submit a draft memorandum and articles of association to the CRO for approval. When approved, the draft is printed by the applicant, to CRO specifications, and it becomes the standard text against which all future applications will be examined. A copy of the printed version of the memorandum and articles is retained by the CRO for comparison against applications received from participants. This is to ensure that the contents remain unaltered from one application to the next.

Companies lodged under the scheme do not require the usual intensive level of attention at the incorporation stage as they have, in effect, been checked previously which enables the issue of certificates within the ten working day limit.

As the purpose of the scheme is to facilitate company promoters who require speedy incorporations, no amendments may be made to the approved text without the express prior approval of the CRO.

The conditions applicable to acceptance under the scheme are outlined on the application form at Appendix 4.

For further particulars of the scheme contact the CRO at 01 804 5478/ 01 804 5381/ 01 804 5384/ 01 804 5277.

5.2 What is CRODisk?

It is an electronic company incorporation scheme designed to facilitate those presenters who require speedy company incorporation without the inconvenience of manually lodging the documents in the CRO Cash Office. The company information is presented on floppy diskette.

5.2.1 Who can join?

The scheme is open to presenters who are members of the Fé Phrainn Scheme. Presenters must open a CRO deposit account.

The CRO will provide software to manage the data entry, form production and diskette creation.

The usual incorporation documents are still required, fully completed, in addition to the diskette. The data from the forms are, however, also contained on the diskette.

5.2.2 What are the features of this system?

- Certificate of incorporation issued within **five** working days
- No queuing to lodge documents in the cash office
- No cash handling
- User-friendly interface, emulating the current CRO form designs
- The system has been extended to the registration of Forms G1Q (change of company name) and to the free registration of Forms B2 (change in registered address) and B10 (change in director/secretary or details) in respect of companies registered under the CRODisk scheme

To avail of the scheme, presenters must have an account with the CRO. For further information contact: New Companies Section at 01 8045478/5381/5384/5277 or info@cro.ie

5.3 Reference Memoranda and Articles of Association

Pursuant to the new provisions of the Company Law Enforcement Act 2001, memorandum and articles of association, once registered may be referenced in future incorporations and need no longer be filed with each new incorporation.

The Reference Memorandum and Articles of Association (Ref M & A) must be submitted to the CRO electronically i.e. as a Word document on a diskette or CD. They must be in plain text with numbered paragraphs and without footnotes or headers.

Each Ref M & A is checked and given a registration number and this registration number may be quoted when submitting a CRODisk application to the Office. The CRO modifies the document and converts the document to a TIFF image. Copies are then printed and furnished to the presenter to confirm before final registration.

5.3.1 Filing fees

The registration fee is €100. However, the use of the Ref M&A, within the CRODisk system, will result in a reduced incorporation fee of €50. The fee for the registration of a company other than in accordance with this procedure costs €100.

6. LOOKING FORWARD – POST INCORPORATION OBLIGATIONS

A full listing of CRO forms is available on www.cro.ie. The most commonly filed forms and documents are:

6.1 Form 70

A public limited company must not commence any business or exercise any borrowing powers until a certificate entitling it to commence business has been issued by the CRO. To acquire such a certificate, the company must file **Form 70 (A4)** which confirms that the nominal value of the company's **allotted** share capital is not less than €38,092.14.

6.2 Form B1 (Annual return)

A company is obliged to deliver an annual return at least once in every year to the CRO. An annual return contains details of the company's directors and secretary, its registered office, details of shareholders and share capital. The return is required to be made up to the company's Annual Return Date (ARD) and filed with the CRO within 28 days of that date. **A company's first ARD is six months after its anniversary of incorporation.** A Form B1 can be filed online at www.core.ie for a reduced fee of €20 as opposed to the €40 fee for paper submission. For further information, see Information Leaflet No. 22, "Filing an Annual Return in the CRO".

6.3 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, 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.

A company notifies its change of address by sending a completed Form B2 within 14 days of the date of the change. The form may be filed free of charge by completing the web version on www.core.ie. It is an offence not to so notify the CRO.

6.4 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.

Form B10 is required to be sent to the CRO within 14 days of the change occurring. It is an offence not to so notify the CRO. The form may be filed free of charge by completing the web version on www.core.ie.

6.5 Form G1/G2/G1Q (Resolutions)

(a) Special/Ordinary resolutions (other than resolutions for change of name) which are presented for filing 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 by the company for the purchase of its own shares. These resolutions may be filed free of charge online at www.core.ie.

(b) Special resolutions for change of name (Form G1Q): Special resolutions for change of name must be printed or typed and dated and the current name of the company must match that on the certificate of incorporation. No other resolutions should appear on this form. A copy of the revised memorandum and articles of association showing the new company name must be submitted with the resolution and Form G1Q. Form G1Q can be completed online at www.core.ie but still incurs a €50 filing fee rather than the paper filing fee of €100. See Information Leaflet No. 8, "Change of Company Name".

6.6 Re-registration (Conversion from one company type to another)

The principal types of re-registration are:

- Private limited with share capital to private unlimited with share capital (**Forms D6/G1, copy of special resolution**)
- Private unlimited with share capital to private limited with share capital (**Forms 86(D12)/G1, copy of special resolution**)
- Private limited with share capital to public limited company (**Forms 71/72 (D1) /G1, copy of special resolution, copy of balance sheet, special report by auditors**)
- Public limited company to private limited with share capital (**Forms 76 (D4) /G1, copy of special resolution**)
- Multi-member limited company to a single-member company (**Form M1**)
A private company limited by shares or by guarantee registered with two or more subscribers to its memorandum of association may become a single-member company on such date as the number of members is reduced to one and all the shares in the company are registered in the name of a sole person. Form M1 should be sent within 28 days of the date on which the number of members is reduced to one. This form can be filed, free of charge, online at www.core.ie.
- Single-member company become a multi-member company (**Form M2**)
A single-member company shall cease to be such on such date as the number of members increases to more than one. Particulars of this change should be notified to the CRO on Form M2 within 28 days after the date when the number of members increased to more than one. This form may be filed, free of charge, online at www.core.ie.
- Public limited company to Societas Europaea. (**Form SE4 and SE12**).
A plc may be converted into an SE where the plc has for 2 years had a subsidiary governed by the laws of another Member State. See information leaflet 19 regarding SE's.

7. FURTHER INFORMATION

7.1 Where can I go for help?

You should consult www.cro.ie for further information. While CRO staff will be able to advise you on matters generally, it is important to get things right when starting a company. It may, therefore, be appropriate to consult a solicitor, company formation agent, a chartered secretary or accountant as appropriate.

7.2 How do I send information to the CRO?

If you wish to deliver documents by hand (personally or by courier), the Public Office of the CRO is at Parnell House, 14 Parnell Square, Dublin 1.

If you wish to send documents by post you should address them to:

Companies Registration Office, O'Brien Road, Carlow, County Carlow.

Exceptions - correspondence which should continue to be sent to Dublin

In order to facilitate the prompt and efficient processing of the following documents, they should continue to be posted to the named sections in Parnell Square, Dublin 1:

- J Forms (Electronic Filing Agent Applications)
- Requests for Voluntary Strike-off
- General Correspondence.
- Statutory filings for:
 - ✘ New Companies,
 - ✘ Company Re-registration
 - ✘ External Companies
 - ✘ Mortgages/Charges
 - ✘ Change of Company Name

Envelopes should be clearly marked on the outside for the attention of the relevant section as per the list above (eg MORTGAGES).

7.2.1 Why should I file my post-incorporation documents online?

Online notification of changes to registered particulars is free, secure and quick. It is more reliable and more efficient than using paper and can cut down on administration. The facility provides for the completion of forms online, the results to be printed, signed and submitted to the CRO. The status of electronically filed forms can also be checked at any time.

7.3 How can I better manage my business with the CRO?

CORE (Companies Online Registration Environment) allows presenters to view, in a managed environment, up to date information on companies for which they are filing agent.

CORE enables them to:

- Check the status of their companies in lists which can be sorted in various orders
- Receive notification of filings for companies in their portfolio and of changes in the status of those documents
- Watch their companies
- Obtain their CRO account balance, transactions and statements

CORE can also help them protect companies from corporate identity theft by fraudsters who may attempt to change details of a company such as the officers, registered office or even company name and then use that company to defraud third parties into supplying goods and services or to obtain a good credit rating in order to borrow. By notifying them of any filings and of changes in the status of those documents they are provided with early warning signals of possible fraud.

CORE normally permits only one user at a time to view watched companies. So, should a professional advisor already have a company on his/her list and the company officer also wishes to watch his/her own company, a request can be submitted from within CORE.

For more details on CORE see www.core.ie

**APPENDIX 1
FORM OF BOND SECURED BY A COMPANY WHICH
DOES NOT HAVE A RESIDENT DIRECTOR**

COMPANIES (AMENDMENT)(No. 2) ACT 1999 – SECTION 43(3)
COMPANIES (AMENDMENT)(No. 2) ACT 1999 (BONDING) ORDER, 2000

KNOW ALL MEN BY THESE PRESENTS:

1. THAT We, (name of Surety) ^{NOTE ONE}

.....
(in this bond referred to as “the Surety”), having our registered office at

.....
at the behest of (name of company)

.....
having its registered office at

.....
(being a company seeking an exemption from the terms of section 43(1) or (2) of the Companies (Amendment)(No. 2) Act 1999(as amended by section 10 Companies (Amendment) Act 2009) (in this Bond referred to as “the Act”) hereby undertake and acknowledge ourselves bound to pay to the nominated person (within the meaning of section 43(3) of the Act) such sum or sums of money as the nominated person may demand in writing –

- (a) in respect of the whole or part of any fine imposed on the company in respect of an offence under the Companies Acts, 1963 to 2009 committed by it, being an offence which is prosecutable by the registrar of companies,
- (b) in respect of the whole or part of any fine imposed on the company in respect of an offence under section 1078 of the Taxes Consolidation Act, 1997, committed by it, being an offence that consists of a failure by the company to deliver a statement which it is required to deliver under section 882 of that Act or to comply with a notice served on it under section 884 of that Act,
- (c) in respect of the whole or part of any penalty which it has been held liable to pay under section 1071 or 1073 of the Taxes Consolidation Act, 1997,
- (d) with the consent of the Revenue Commissioners, such sum as may have been sanctioned by the Revenue Commissioners and the Minister for Enterprise, Trade and Employment in respect of defraying such expenses as may have been reasonably incurred by the nominated person in carrying out his or her duties under section 43(3) of the Act,

whether such fine or penalty arises during or before the period of validity of this bond provided that the aggregate of such sums of money which the Surety shall be obliged to pay to the nominated person shall not in the period of validity of this bond exceed €25,394.76.

- 2. It is a condition of this bond that the Surety shall not become liable to pay a sum of money referred to in paragraphs (a) or (b) of clause 1 of this bond unless the time permitted for payment of the fine imposed by the Court has expired and the sum concerned has not been fully discharged.
- 3. It is a condition of this bond that the Surety shall not become liable to pay a sum of money referred to in paragraph (c) of clause 1 of this bond unless a demand for payment has been made of the company by the Revenue Commissioners and the sum concerned has not been fully discharged within the time expressed to be allowed for payment in such demand.

NOTE ONE: Surety must be a member of a class specified in Schedule 2 to the Companies (Amendment)(No. 2) Act, 1999 (Bonding) Order 2000 (bank, building society, insurance company or credit institution)

4. It is hereby acknowledged and agreed by the Surety that the granting of time to the Company in respect of the payment of a penalty imposed by the Revenue Commissioners shall not affect the liability of the Surety under this bond.
5. This bond shall have effect for the period of _____ commencing on the _____ day of _____ 20____ and expiring on the _____ day of _____ 20____
(in this bond referred to as the period of validity). NOTE TWO
6. It is hereby acknowledged and agreed by the Surety that in the event of this bond not being renewed immediately on its expiry, the Surety shall as soon as practicable thereafter, but in any event within 7 days, notify the registrar of companies to that effect in writing.
7. The Surety hereby acknowledges and confirms it will as soon as practicable after entering into this bond furnish a certified copy to the registrar of companies.

Dated this _____ day of _____ 20____.

Present when the Common Seal NOTE THREE of the Surety was affixed hereto:

NOTE TWO: Period must not be less than two years for the bond and may not commence earlier than the occurrence of the appropriate event which gave rise to the requirement for the bond.

NOTE THREE: The Bond must be executed under the seal of the Surety.

APPENDIX 2

COMPANIES REFERRED TO IN THE SECOND SCHEDULE TO COMPANIES (AMENDMENT)(NO.2) ACT 1999

(Companies which are not reckoned for the purposes of the 25 directorship rule, pursuant to section 45 of the 1999 Act)

A company that is a member firm within the meaning of the Stock Exchange Act 1995.

A company that is a stock exchange within the meaning of the Stock Exchange Act 1995.

A company that is an associated undertaking or a related undertaking of a member firm or stock exchange within the meaning of the Stock Exchange Act 1995.

A company that is an investment business firm within the meaning of the Investment Intermediaries Act 1995.

A company that is an associated undertaking or a related undertaking of an investment business firm within the meaning of the Investment Intermediaries Act 1995.

A company to which Chapter VII, VIII or IX of Part II of the Central Bank Act 1989 applies.

A company that is engaged in the business of accepting deposits or other repayable funds or granting credit for its own account.

A company that is an associated body of a building society within the meaning of the Building Societies Act 1989.

A company that is an associated enterprise of a credit institution within the meaning of the European Communities (Consolidated Supervision of Credit Institutions) Regulations 1992 (S.I. No. 396 of 1992).

An investment company within the meaning of Part XIII of the Companies Act 1990.

A company that is a management company or trustee within the meaning of Part XIII of the Companies Act 1990.

A company that is an undertaking for collective investment in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 (S.I. No. 78 of 1989).

A company that is a management company or trustee of an undertaking for collective investment in transferable securities within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 (S.I. No. 78 of 1989).

A company that is a management company or trustee of a unit trust scheme within the meaning of the Unit Trusts Act 1990.

A company that is a general partner or custodian of an investment limited partnership within the meaning of the Investment Limited Partnerships Act 1994.

A company that is an undertaking with close links with a financial undertaking within the meaning of the Supervision of Credit Institutions, Stock Exchange Member Firms and Investment Business Firms Regulations 1996 (S.I. No. 267 of 1996).

Any other company the carrying on of business by which is required, by virtue of any enactment or instrument thereunder, to be authorised by the Central Bank.

A company that is:

(a) a holder of an authorisation within the meaning of:

- (i) Regulation 2 of the European Communities (Non-Life Insurance) Regulations 1976 (S.I. No. 115 of 1976),
- (ii) Regulation 2 of the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994)
- (iii) Regulation 2 of the European Communities (Life Assurance) Regulations 1984 (S.I. No. 57 of 1984), or
- (iv) Regulation 2 of the European Communities (Life Assurance) Framework Regulations 1994, (S.I. No. 360 of 1994)

or

(b) a holder of an authorisation granted under the European Communities (Non-Life Insurance) (Amendment) (No.2) Regulations 1991 (S.I. No. 142 of 1991)

A company that is an insurance intermediary within the meaning of the Insurance Act 1989.

A company that is an excepted body within the meaning of the Trade Union Acts 1871-1990.

APPENDIX 3

CHECKLIST FOR MEMORANDUM AND ARTICLES OF ASSOCIATION (ALL COMPANY TYPES)

- The memorandum and articles must comply with the Companies Acts 1963-2009, and must be printed in clear black print on durable paper. The paragraphs must be numbered consecutively.
- The correct statutes, e.g. 'Companies Acts 1963-2009', must be cited.
- If the company is a limited company and has not claimed the exemption under section 24(1) Companies Act 1963, as amended, the full name of the company followed by Limited, Public Limited Company or Teoranta, Cuideachta Phoiblí Theoranta as applicable, must be given; Abbreviations to Ltd, PLC or Teo. are not acceptable.
- The company name must exactly match that on Form A1.
- The main objects of the company must be stated and must correspond with the principal activity identified in Form A1.
- Except in the case of an unlimited company and a guarantee company without share capital, the nominal capital of the company must be stated in the memorandum. In the case of a guarantee company, whether without or with a share capital, the memorandum must contain a statement that each member undertakes to contribute to the assets of the company in the event it is being wound up while he/she is a member, or within one year after he/she ceases to be a member, for payment of the debts and liabilities of the company contracted before he/she ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.
- In the case of a public limited company, the memorandum must state that the company is to be a public limited company, as well as the amount of share capital (minimum €38,092.14) with which the company proposes to be registered and its division into shares of a fixed amount.
- The memorandum and articles must be signed by the subscribers, their addresses and descriptions (occupations) must be stated and their signatures witnessed and dated. With the exception of guarantee companies, each subscriber must handwrite the number of shares he/she will take (not less than one share).

The law prohibits the following matters:

- Banking objects are not permitted unless a licence has been obtained from the Central Bank of Ireland.
- A company is excluded from holding a bookmaker's licence under the Betting Acts 1926-1931.
- A company cannot act as director, auditor, receiver or liquidator for another company.
- It is not permitted to carry on the business of insurance or re-insurance unless the Insurance Acts have been complied with. Where the business of insurance or re-insurance is mentioned in the objects of a company, the applicant must submit confirmation to the CRO that the Department of Enterprise, Trade and Employment (Insurance Financial Supervision Section) has acknowledged notice under section 22(1)(b) Insurance Act 1989.
- A credit union, trade union or building society cannot be incorporated as a limited company.
- Broadcasting is prohibited unless the permission of the Minister for Public Enterprise has been obtained.

APPENDIX 4 COMPANY INCORPORATION SCHEME (FÉ PHRAINN)

Conditions of Company Incorporation Scheme

- The Memorandum and Articles must be printed in clear black print on durable paper. Each page should be A4-size (210mm x 297mm).
- No alterations may be made to the printed memorandum and articles once approved by and retained at the CRO, save for the insertion of the principal object clause, and share capital details.
- The additional text inserted in the principal object clause must not be more than **forty words** long **and** ought to include a maximum of **two** distinct activities. The principal activity must match the NACE code set out in the application, Form A1.
- The scheme may not be used for the formation of companies that are not required for immediate commercial use by the company promoters.
- If the accompanying forms are incorrectly completed, the documentation will be returned by post and, on relodgement with the CRO, will be treated as a new application.
- Agents must ensure that any/all information leaflets and notices that are issued to the agent by the CRO with the Certificate of Incorporation are passed on to their clients.
- A person who applies to become a member of the scheme and who trades under a business name must have a current business name registration under that name at the date of application and must maintain that registration for the duration of his/her/its membership.
- A company which applies to become a member of the scheme must be and must remain up to date with the annual return filing requirements under the Companies Acts 1963-2009 for the duration of its membership.
- In the event of non-compliance with any of the above, the CRO may forthwith terminate the membership of the presenter and in such event, shall notify the presenter in writing of the termination and the reason(s) for same.
- The CRO, in all matters, shall be the final arbiter in the interpretation of these conditions.

ACCEPTANCE OF CONDITIONS

Company name

Address

Phone No.

Signature _____

Date

APPENDIX 5 LEAFLETS PUBLISHED BY THE CRO

Leaflet No.	Leaflet Subject Matter
1	Company Incorporation
2	Six things that every company director should know about company registration
3	CRODisk
4	CRO Fees
5	Foreign Companies
5a	Legalisation of Foreign Documents
6	Registration of Limited Partnerships
7	Disclosure & Publication Requirements in Relation to Companies & Business Names
8	Company Change of Name
9	Guarantee Company Without Share Capital – Accounts
10	Audit Exemption
11	Restoration of a Company to the Register
12	Single-Member Company
13	Euro Conversion of Share Capital
14	Business Name Registration
15	Statutory Electronic Filing Agent
16	The Company Secretary
17	Requirement to have an European Economic Area Resident Director
18	Notification by Director/Secretary of Resignation
19	Societas Europaea
20	Statutory Declarations made for the Purposes of the Companies Acts
21	Grounds for Returning Documents to Presenters
22	Filing an Annual Return in the CRO
24	Exemption from use of “Limited”/”Teoranta” as part of company name
25	Licences granted prior to 1 March 2002 by the Minister for Enterprise Trade & Employment exempting a company from the use of the word Limited or Teoranta as part of its name





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 Web: 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 Láithreán: www.cro.ie