

Disclosure  
Requirements  
with Respect to  
Company  
Particulars

DILLON  EUSTACE

DUBLIN CORK BOSTON NEW YORK TOKYO

## DISCLOSURE REQUIREMENTS WITH RESPECT TO COMPANY PARTICULARS

### Introduction

Directive 2003/58/EC amending Directive 68/151/EEC (the “First Disclosure Directive”) became effective on 1<sup>st</sup> April, 2007 having been transposed into Irish law by the European Communities (Companies) (Amendment) Regulations 2007 (S.I. No. 49 of 2007) (the “Regulations”).

### New Disclosure Requirements for Limited Liability Companies

The Regulations extend the disclosure and publicity requirements set out in the First Disclosure Directive as implemented into Irish law pursuant to the European Communities (Companies) Regulations 1973, as amended, in respect of business letters and order forms of a company to electronic communications and websites. Therefore with effect from 1<sup>st</sup> April, 2007, every Irish limited liability company is required to display the following information on the company’s website, business letters and on its order forms “whether they are in paper form or any other medium” (such as faxes and emails):

- (a) the name <sup>1</sup>and legal form of the company;
- (b) the place of registration of the company and its company number;
- (c) the address of the registered office of the company;
- (d) the fact that it is a limited company if it is exempt from the obligation to use the words “limited” or “teoranta” in its name;
- (e) in the case of a company that is being wound up, the fact that it is being wound up;  
and
- (f) if a reference is made therein to the share capital of the company, the reference shall be to the subscribed and paid up share capital<sup>2</sup>.

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<sup>1</sup> Section 141 of the Companies Act, 1963

<sup>2</sup> Regulation 9 of the European Communities (Companies) Regulations 1973 as amended by European Communities (Companies) (Amendment) Regulations 2007

Failure to comply with these obligations shall constitute a criminal offence punishable by a maximum fine of €2,000.

Pursuant to Section 196 of the Companies Act, 1963, the “headed paper” or “business letters” of an Irish limited liability company must also include the present (and any former) Christian name or initials and the surname of each director and the nationality of each director (if not Irish).

## Unlimited Liability Companies and Branches of Foreign Incorporated Companies

The new requirements do not apply to unlimited liability companies, therefore the “headed paper” or “business letters” of such a company need only bear the name of the company, the present (and any former) Christian name or initials and the surname of each director and the nationality of each director (if not Irish).<sup>3</sup> Similarly the new requirements do not apply to an Irish branch of a foreign incorporated company, therefore every “letter” or “order form” used by the branch of such a company need only bear the place of registration of the branch and the company, the registered number of the branch and the company and a reference to the subscribed and paid up share capital (if there is a reference to the paid up share capital of the company) and if the company is in an EU Member State, the legal form of the company and in the case of a company that is being wound up, the fact that it is being wound up.<sup>4</sup>

## Summary

Information Notice I/2007/2<sup>5</sup> issued by the Office of the Director of Corporate Enforcement recommends that Irish companies and their directors, secretaries and managerial staff take steps to bring their websites and order forms into compliance as soon as possible.

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<sup>3</sup> Section 196 of the Companies Act, 1963.

<sup>4</sup> European Communities (Branch Disclosure) Regulations 1993

<sup>5</sup> I/2007/2 (Information Notice 2007-2 final.pdf)

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*For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the team members below.*

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