

Company Law Review

With Paul Heffernan, Consultant,
McCann FitzGerald LLP

24th January 2024

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European Union (Cross-Border Conversions, Mergers and Divisions) Regulations 2023

- Enhanced creditor rights in cross-border mergers
- New process for cross-border conversions: limited liability companies can migrate to other EU countries without being dissolved so that all the assets and liabilities of the company become those of the converted company, and the members of the company continue as members of the converted company under the law of the destination Member State

Companies Registration Office verification of directors' identities

- CRO require Personal Public Service Number (“PPSN”) or an Identified Person Number (“IPN”) be used when filing certain forms concerning directors. Required to improve identification of relevant directors

Extension of “interim period” until end of 2024 to allow companies hold virtual general meetings

- Separately, it is proposed that the ability to hold virtual general meetings will become permanent in forthcoming change to Companies Act

European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) (Amendment) Regulations 2023

- Certain designated persons have unrestricted access to the registers. Some designated persons have restricted access (for AML diligence purposes)
- Members of the public must show a “legitimate interest” to justify the search request

Screening of Third Country Transactions Act 2023

- Expected to be commenced Q2 2024
- Minister for Enterprise, Trade and Employment to scrutinise certain transactions as to the risks they present to national security and public order, where a non-EEA or non-Swiss undertaking (a third country undertaking or person connected with such an undertaking) acquires control of, or a prescribed share in, an Irish asset or undertaking in certain sectors
- Apart from mandatory notifiable transactions, any transaction may be screened if certain conditions exist
- The Act also empowers the Minister to review transactions that have completed within 15 months of the Act coming into force
- Transactions cannot be completed until a screening decision has been issued by the Minister (criminal consequences involved)

Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Bill 2023

- Dail 3rd Stage
- Bill will improve the availability of information to employees and creditors in corporate insolvencies

Companies (Corporate Governance, Enforcement and Regulatory Provisions) Bill

- In Programme for Government but not yet published
- Public Consultation 2023 (also some CLRG recommendations)

Corporate Sustainability Reporting Directive (“CSRD”)

- Will replace Non-Financial Reporting Directive
- To be implemented by 6 July 2024, first reporting for in scope companies 2025, reporting for some companies begins in 2029
- Creation of mandatory European Sustainability Reporting Standards (ESRS) against which in-scope companies will be required to report
- Information being reported is legally required to be subject to third party assurance

Proposal for a Corporate Sustainability Due Diligence Directive (“CS3D”)

- Political agreement at EU level in December 2023. Likely to take effect 2026
- In scope companies must (1) identify, prevent, mitigate and remediate actual and potential adverse impacts on people and environment and (2) implement a detailed climate transition plan
- All businesses in supply chains impacted (as they will be required to provide information to in scope companies)
- There will be public enforcement and also civil liability

Directive (EU) 2022/2381 on improving the gender balance among directors of listed companies and related measures

- To be implemented by 28 December 2024
- The Directive requires EU listed companies to ensure that at a minimum either 40% of all non-executive director positions or 33% of all director positions are held by the "underrepresented sex" (to use the EU's term) by 30 June 2026, with "effective, proportionate and dissuasive" penalties for non-compliant companies

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